

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 WEST PALM BEACH DIVISION

4 CASE NO. 20-md-02924-ROSENBERG

5 **IN RE: ZANTAC (RANITIDINE)** .
6 **PRODUCTS LIABILITY** . West Palm Beach, FL
7 **LITIGATION.** . May 7, 2020
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9 .

10 VIDEO CONFERENCING of
11 MDL LEADERSHIP APPLICATION INTERVIEWS
12 BEFORE THE HONORABLE ROBIN L. ROSENBERG
13 UNITED STATES DISTRICT JUDGE

14 Official Court Reporter: Pauline A. Stipes
15 HON. ROBIN L. ROSENBERG
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1 *THE COURT:* Okay, good morning, everyone, welcome. We
2 are here for day two, session three, and I look forward to
3 today's interviews and I very much enjoyed yesterday's
4 interviews.

5 The first applicant this morning is Mr. Babin. Mr.
6 Babin, if you would turn your video on and audio. There you
7 are. Good morning.

8 *MR. BABIN:* Good morning. Can you see and hear me?

9 *THE COURT:* Yes, great.

10 *MR. BABIN:* With respect to the application, my name
11 is Steven Babin, and I will give you a brief few points why I
12 think I will be --

13 *THE COURT:* I apologize, I wanted to make sure my
14 court reporter could hear.

15 Okay, I will let you begin again. Were you on
16 yesterday's session? My court reporter asked if I should give
17 remarks this morning. Were you on yesterday?

18 *MR. BABIN:* I was not. I would welcome any remarks.

19 *THE COURT:* I don't want to encroach on anyone's time
20 today, I think I will just have you proceed.

21 I will summarize. I was very grateful for all of the
22 applicants, the applications were tremendous, you have given me
23 great insight, you and the others, on how the case should be
24 handled according to some of the views that some of you shared.
25 I very much promote the notion of diversity of thought of

1 ideas, background, the idea of bringing in newer and younger
2 attorneys as well to be mentored, and I spoke a bit about what
3 I felt was the importance of the certifications that everybody
4 had to file with respect to their census data, and spoke about
5 why I felt the disclosures that I required each of you to file
6 was important in terms of ensuring that I and others have
7 confidence in you as an applicant if you are selected as a
8 leader in this case, or even if you are not, and those are some
9 of the highlights.

10 I also indicated that if there was any diversity in
11 particular you felt you brought to the applicant pool, let me
12 know. It isn't always apparent on paper or through the Zoom
13 means of interaction.

14 So, that is probably a summary, I think, of the
15 points, and I thank Pauline for letting me know that, because I
16 don't know everyone who was on yesterday because of the way we
17 have the video set up. I am just looking at the person who is
18 appearing before me, although I can see how many participants
19 there are. I am not flipping back and forth, it is my
20 intention to give my undivided attention to the applicant.

21 Let me let you begin again.

22 *MR. BABIN:* I would like to make three brief points as
23 to why I make a good applicant for the steering committee in
24 this case. The first point, I truly believe in the work we do.
25 I grew up poor and went to law school to help people. What I

1 found after I finished college was that aggregate litigation,
2 MDL's, or class actions are a true means to providing justice
3 to large groups of people who have been harmed.

4 I think there are issues in any way we try to approach
5 justice in the court system, this is a system that works
6 consistently. The work we do, in my experience, really changes
7 our clients' lives. That makes me excited about the work and
8 that makes me enjoy the work. That means I will fight for my
9 client in this case zealously and appropriately.

10 The second point, I am a good team player. I am a new
11 lawyer, I have a new law firm, only a year and a half old right
12 now, and I certainly cannot do it alone.

13 What I have learned in the context of working in MDL's
14 is that it is much more of a collegial Bar than I expected. I
15 thought it would be old guard, old money, and very hard for
16 someone like me to break into this type of litigation and do
17 substantive and meaningful work. What I found is that if you
18 are willing to do the work and put your head down and do hard
19 work, you can do it. It is not as exclusive as I thought it
20 would be.

21 Certainly there are exclusive components of it, it is
22 expensive, but it has been an incredible learning experience.
23 I have found everyone has particular talents that they can
24 bring to the table in a litigation this big.

25 The other thing I found working with other people, not

1 only do we have to work together as Plaintiffs' lawyers, but in
2 litigation we have to work together with our opponents on the
3 Defense side as well. I am fun to work with, easy to work
4 with, but I also exercise a degree of professionalism
5 particularly dealing with the other side so we can cooperate
6 and confer and get things done, so we don't have to bring every
7 disagreement to the Court, and we can find where we can reach
8 agreement and compromise effectively.

9 The last thing, I am on the Plaintiffs' Steering
10 Committee in the Valsartan MDL. I was on the briefing side in
11 that case, and although we haven't started briefing many
12 Daubert issues in that case yet, what I experienced I gained
13 from Daubert in that case will be invaluable in this case. It
14 is the same carcinogen, we will use many similar experts. The
15 way in which MDMA causes cancer, the mechanism itself will be
16 similar, regardless of the fact the way MDMA gets into the
17 pills may be different in the litigation.

18 With that, I think I'd make a good steering committee
19 member. As far as diversity, I am a white man, the only thing
20 I bring to the table there, I am young and new and willing to
21 work.

22 With that, I would welcome any questions the Court
23 has.

24 *THE COURT:* Thank you, Mr. Babin. I want to
25 congratulate you on beginning a new firm, I know that is not

1 easy, and calls upon kind of a multitude of skills that go well
2 beyond what we learn in law school. That is terrific. It
3 seems as if you are excited about that, and thank you for
4 sharing with me about your background and what has motivated
5 you to do the kind of work that you do.

6 So, I really appreciate that.

7 Knowing that you have been involved in Valsartan with
8 the law and briefing, let me ask you, what types of motions
9 pre-Daubert do you maybe see in this case, if you have given
10 that any thought, and have you given any thought to the order
11 of motions, how they may compare to what experience you have
12 had in Valsartan and maybe any differences?

13 Again, I recognize we are early on and one of the
14 other comments I made yesterday, the views you express today,
15 your personal views, ultimately when leadership is selected
16 there will be a united presentation. I don't want anyone
17 feeling uncomfortable sharing anything. I made that very clear
18 yesterday.

19 *MR. BABIN:* I would defer to the collective thinking
20 of my colleagues. If the Court would indulge me and allow me
21 to say what I think could happen in the case and briefing, and
22 the similarities and differences from Valsartan.

23 What happened in Valsartan, the Court did not allow
24 the Defendants to file Motions to Dismiss until we had engaged
25 in the pre-discovery phase where we were able to not only

1 identify, but actually have the Defense serve us with certain
2 key documents related to the litigation to help front load all
3 of the parties, as well as the Court's understanding of what is
4 important as far as information and documents go. I think that
5 was a very helpful component.

6 One of the things that is happening currently in
7 Valsartan as we are front loading the class action claims -- I
8 am not certain if that is the best way to do it, but it is the
9 way in which we are doing it. What came up in Valsartan was an
10 interesting issue, the Court proposed potentially, one,
11 briefing class certification first, or two, trying a bellwether
12 class case, a novel theory.

13 With respect to the economic claims, the Court had the
14 idea of trying one economic case to see if that case in and of
15 itself was a viable case. That would be a short trial prior to
16 the actual class certification briefing occurring. So, what we
17 would have done -- and we backed off that decision. What we
18 would have done hypothetically under those circumstances was
19 try a couple day economic class case for one named Plaintiff in
20 the class action and subsequently, and only subsequently if we
21 had won that trial, we would brief certification.

22 The other thing we have done, obviously, the class
23 certification in Valsartan is going to be briefed after
24 Daubert.

25 Generally, my experience in class actions, I think

1 there is law -- I can't cite you to a case off the top of my
2 head, but I know there is law that says you don't need to
3 decide Daubert prior to class certification, this is something
4 briefed before the Court, whether or not experts would be able
5 to solve Daubert.

6 The other thing in this case that is different than
7 the MDL in front of Judge Sargus, it looks like, if I am
8 reading the Court's orders right, we will be dealing with
9 general causation first here. With Judge Sargus' MDL we
10 streamlined everything and dealt with general and specific
11 causation right away, and I think even with COVID we will get
12 our first trials started before the two-year mark in that case.
13 It was very fast paced and very streamlined, but I think it has
14 been effective.

15 I hope I am answering the Court's question here. How
16 this could be most effectively litigated as far as dealing with
17 the motions, it would make sense to have multiple tracks, a
18 class action, personal injury track, economic claims, class
19 action, economic claims and personal injury, that would run
20 simultaneously.

21 One of the concerns when you have multiple cases,
22 class action and personal injury, you have one type of case
23 front loaded and that type of case will effectively be the more
24 valuable case, therefore, the class action case that is front
25 loaded, it would be more effectively the valuable case, and

1 personal injury less valuable because of the way they are
2 adjudicated timeline wise. I am not sure whether that plays
3 out to be a hundred percent true in practice, but I know it is
4 a concern.

5 So, that is one of the things I would suggest, and
6 that is all I have on your question.

7 *THE COURT:* Okay. All right. Thank you so much, Mr.
8 Babin.

9 We have a number of applicants this morning, this
10 might be one of our larger groups, 17. In the interest of time
11 so I get to hear everybody before we drop off for lunch, I want
12 to thank you for your application and time this morning. Feel
13 free to stay on and listen to others. Have a nice rest of the
14 day.

15 *MR. BABIN:* Thank you for your time, your Honor.

16 *THE COURT:* Thank you.

17 Okay, Mr. Longer, good morning.

18 *MR. LONGER:* Good morning to you, your Honor, Fred
19 Longer. I wish I could be there in sunny Florida, your Honor,
20 but it is sunny here in Philadelphia, we have that covered.

21 *THE COURT:* We have had remarkable weather. It can
22 get hot and muggy, and we don't have a spring. We are having
23 spring-like weather even into May. If you have to be somewhere
24 during this time, it is not a bad place to be.

25 I want to thank you for the work that you have been

1 doing thus far, and let you have an opportunity to give an
2 opening statement to the Court.

3 MR. LONGER: Thank you, your Honor. My name is Fred
4 Longer, I'm a partner with Levin, Sedran & Berman. Beginning
5 in 1994, my office, my partners and I, began working on the
6 orthopedic bone screw litigation, MDL number 1014. This is MDL
7 2924, we have been at it for quite a little while here. After
8 the bone screw litigation, we really got into pharmaceutical
9 litigation and conducted the Fen-Phen litigation and Rezulin
10 litigation.

11 We have been before Judge Fallon, I have been before
12 Judge Fallon in four MDL's, the Vioxx litigation, Chinese
13 manufactured drywall, and most recently, I was appointed by
14 Fallon to the Plaintiffs' Steering Committee in the Xarelto
15 litigation. I was the chair of the briefing committee in that
16 litigation. All of these cases have resolved, and I have time
17 to participate in this case, and my firm can self fund without
18 relying on third-party funding.

19 As your Honor has mentioned, you have been kind enough
20 to appoint me to the April deliverables team. Thank you for
21 the appointment. One of the attributes I bring, I work
22 collaboratively and cooperatively with others. I heard Mr.
23 Babin say it, and I am myself a team player. The team you have
24 assembled thus far is a remarkable group of lawyers. I really
25 appreciated getting to know many of them, they really are

1 talented lawyers and I am honored to be part of that group.

2 We have, as your Honor mentioned, been deep in the
3 weeds already. We have been spending many sleepless nights,
4 myself included, getting materials prepared to prosecute these
5 individual and class claims. The work product being produced
6 by the ADT in the compressed time frame we have is very
7 impressive.

8 We have been preparing infrastructure, such as the
9 census, which has been proven helpful, and we are working
10 forward to get together additional materials for your Honor
11 like the PSI privilege, scheduling orders, and we are working
12 to prepare materials which will enure to everyone's benefit.

13 I personally have been working on the master pleadings
14 with Jennifer Moore and others. We intend to properly bucket
15 all of the Defendants into a master pleading which will work
16 for all of the litigants, all of the Plaintiff litigants in the
17 case, and also prepared a short form Complaint so that we can
18 streamline the process of having these Plaintiffs enter the
19 litigation.

20 In addition, I have been preparing third-party
21 discovery along with Ricardo Martinez and I have also been
22 doing other materials with Ashley Keller, getting ready for
23 working with the Defendants towards presentations to your
24 Honor.

25 I understand from your Honor's questions yesterday

1 that you were trying to get our vision for the MDL going
2 forward, and I share the vision of many on the ADT that the
3 personal injury claims, the consumer class case, third party
4 payor cases should all proceed in tandem.

5 This is possible because the development of the drug
6 and the marketing, the conduct of the Defendants are all common
7 facts to discovery, but I believe, given the number of
8 Plaintiffs that have appeared so far in the census, that there
9 should be an emphasis on advancing the trial of the personal
10 injury claims. Getting to trial is the start that will aid all
11 of the parties to navigate to an end game.

12 With a large enough leadership, we should be able to
13 conduct personal injury trials, consumer class, and the third
14 party payor class in tandem.

15 I also share the thought that we need leadership
16 appointed immediately. Someone like yourself has to be the
17 decider. Whether the Court appoints co-lead counsel, an
18 executive committee with a chair person, or some variation, it
19 is essential to develop the leadership that will direct all of
20 the parties, all of the Plaintiffs' Steering Committee members.
21 They need that direction, your Honor.

22 Obviously, the size of the PSC matters. This is a
23 complex case with many Defendants for whom discovery will be
24 necessary. Manpower and ability to finance the litigation are
25 factors for considering the size of the PSC. Whether that

1 number is 18, 20, or some other number, more or less will be up
2 to your Honor to decide, but I do think that, given your
3 Honor's concern for diversity, having a larger number of
4 Plaintiffs here allows persons with gray hair and persons with
5 younger blood to be on it, and you can have that mix of persons
6 that actually creates a really dynamic PSC. I think that is
7 what your Honor really wants, and I think that is beneficial to
8 the litigation as well as to counsel involved.

9 So those are my prepared remarks, your Honor. I am
10 happy to answer any questions you may have.

11 *THE COURT:* Thank you so much, Mr. Longer.

12 Is there any work you anticipate doing with any
13 litigation involving business interruption claims arising out
14 of COVID? And that is directed to making sure your time
15 commitment would be there for this case if you are in
16 leadership. I don't know if you are involved or will be
17 involved. I wanted to find out more about that.

18 *MR. LONGER:* Most definitely. My firm filed a
19 petition at the judicial panel for getting together a new MDL
20 on business interruption litigation. My partner, Larry Berman,
21 and I are working together on that, it is a collaborative
22 effort in my office. We have associates, we can walk and chew
23 gum at the same time. The answer to your question is, we are
24 working that way, I don't see it being a tremendous time
25 constraint given the fact that my partner I think will be

1 working with the case as much as I will.

2 *THE COURT:* Okay. Is that something you would be
3 seeking a leadership position in if it is treated as an MDL, or
4 would it be a partner, if you were given a leadership role in
5 this case, which is also a very big case? I would think the
6 business interruption case, if it becomes an MDL, will be a
7 very large case.

8 *MR. LONGER:* I will say this, we are hoping that the
9 case is transferred to the Eastern District of Pennsylvania
10 where Judge Savage presides. I think our role would be a
11 liaison function, a lead function.

12 *THE COURT:* Okay. And what legal issue or issues do
13 you find most interesting here so far in this case?

14 *MR. LONGER:* Well, going back in time, your Honor, I
15 was working in the Vioxx litigation when preemption became a
16 touch button issue, and we worked quite a lot with David
17 Frederick in the Wyeth litigation, hand in hand with David, and
18 the preemption issue that is present in all of these cases is
19 very significant and, obviously, it is an important case.

20 I have had and still have the pleasure to work with
21 David in the Fosamax case. We are back on remand now from the
22 Supreme Court of the United States in the Albrecht (phon) case,
23 we filed yesterday our papers before the District Court Judge
24 in New Jersey on that issue, so I think preemption will be an
25 overriding issue. It is the kill shot that Defense enjoy,

1 except that it has been diminished quite substantially lately
2 in lieu of the Fosamax opinion of the Supreme Court.

3 The ability to have a hypothetical FDA analysis is no
4 longer the law. There has to be real agency decision that has
5 the effect of law, and if it doesn't, an email from an employee
6 at the FDA is not going to cut the mustard anymore. Those are
7 really significant issues that we are going to be confronting
8 in this litigation and the Defendants are going to present
9 arguments that we think are easily going to be defeated, but
10 they are going to come up, and I think that that will be
11 probably the most interesting issue that I see going forward.

12 *THE COURT:* Okay, I appreciate that. One more
13 substantive question before I move on to the next applicant.

14 With respect to Daubert, the science continues to
15 evolve. How do you see a motion practice surrounding Daubert
16 and changing science? How do you see the briefing both from a
17 scheduling standpoint and -- I guess scheduling in light of
18 both the needs of the litigation and moving the case forward,
19 which you are a proponent of, but making sure that motions are
20 briefed when the science is available, is sound, is reliable,
21 and both parties can feel confident relying on the state of the
22 science at the time the briefing takes place?

23 *MR. LONGER:* Well, the way I perceive this case to
24 proceed, we are going to have to go through discovery to get to
25 a point where Daubert becomes an issue. We have to have

1 experts, we will have to have a full record that would be ready
2 for your Honor probably in about 18 months from now, maybe,
3 some timeframe like that.

4 We need to go through the entire record of all of the
5 Defendants regarding their MDMA physician and we'll drill down
6 through their own studies and fully vet them, analyze them, and
7 comment on them just so it is in the law. There are new
8 studies coming out every day, there are new opinions coming out
9 from Courts every day, there is new science, science is
10 evolving. The focus on the science in this litigation
11 regarding MDMA is very favorable to us, and I believe that it
12 will only become more favorable.

13 So, in the future, as we advance towards this
14 timeframe when Daubert motions will be before your court,
15 before your Honor, I think that we will be ready and able, more
16 than able to confront whatever the science is at the moment and
17 we will, I trust, be able to assure your Honor that this case
18 has that.

19 *THE COURT:* Thank you very much for applying, the work
20 you have done, and taking the time to give me your thoughts and
21 telling me a little more about your background. I appreciate
22 that.

23 *MR. LONGER:* Very nice to see you, your Honor. I look
24 forward to getting to sunny Florida soon.

25 *THE COURT:* Okay, thank you so much.

1 Okay, good morning, Mr. Keller. How are you?

2 MR. KELLER: Good morning, your Honor. Can you hear
3 me?

4 THE COURT: Yes, perfectly.

5 MR. KELLER: It is 40 degrees in Chicago with a winter
6 that will never end. I am looking forward to getting back to
7 Florida when it is safe.

8 THE COURT: Everybody wants to get to that time,
9 whether they come to Florida or not, and move along freely. We
10 need to take it carefully and not rush into things, as I said
11 yesterday. I don't know if you were on. In all regards, how
12 the Court treats everything it is doing, safety comes first. I
13 am not rushing to having in-court proceedings any time soon.
14 This is working well, and I am glad about that, and I know the
15 other judges around the country are utilizing Zoom in very
16 effective, but sensitive ways and thoughtful ways.

17 So, with that, you have an opportunity now to give
18 your opening statement, and then I would like to perhaps
19 give -- pose some questions to you as well.

20 MR. KELLER: Sure. I will be brief, I know you have a
21 long day ahead of you.

22 Let me start by quickly summarizing what I have done
23 thus far in the MDL and what I hope to do going forward. As
24 Mr. Longer alluded to, I have been honored to be brought into
25 the team helping to prepare the legal presentation for next

1 week, and it has been a real privilege to work with the
2 deliverables team and Professor Dodge and my new friends on the
3 Defense side.

4 The April deliverables team, they are conscientious,
5 hard working lawyers, and all of the Plaintiffs owe them a debt
6 of gratitude for putting the case on such sure footing and
7 accomplishing what they have in a short period of time given
8 all of complexities of operating remotely. It has been a treat
9 to work with them.

10 The second thing I think you are aware of, your Honor,
11 this is a very complex case. Every MDL by definition is
12 complex, but this one is on the complex end of the MDL
13 spectrum, the sheer number of Defendants, Plaintiffs, and the
14 length of time these drugs were on the market, branded,
15 generic, over the counter. We will have a lot of issues being
16 presented to you next week.

17 The purpose of the law and briefing, which is always
18 important, takes on heightened significance in this proceeding.
19 I will use that as a segue. I am self aware enough to know
20 what I am good at and what I am not. I am trying to raise my
21 hand on the briefing side, I would like to spearhead the
22 efforts.

23 Let me give you the why me as to that topic area. As
24 to a confession, I am a complete lawyer, I love diving in the
25 law, I look at regulations over and over again. Agencies don't

1 write in plain English, you can come up with an understanding
2 of what the agency was doing, and there are gaps and ambiguity.
3 When you have someone passionate about that kind of work you
4 are going to get better work product and that will serve the
5 Plaintiffs well.

6 The second point I will make, and I have to apologize
7 for abandoning any pretense of humility here, because I love it
8 so much, I am good at it. I will stack my brief and podium
9 skills against anybody from now to Sunday. We know you will
10 get the issues jointly from the other side with that level of
11 quality. Given the nature of the allegations here and the
12 significance of what is alleged, Defense hired the best law
13 firms. I know Williams & Connolly and the other white shoe
14 firms that they have brought to bear will do an excellent job
15 on briefing. It is important for the Plaintiffs to match them
16 with that fire power.

17 The final point I would make to your Honor to give you
18 a perspective on my approach to the law, philosophically I am
19 old fashioned, I am not a legal relic. I believe in objective
20 right answers to legal questions. In an adversarial system, my
21 responsibility is to couch legal reasons in the way best for my
22 clients. I am also an officer of the Court, and there is an
23 objective answer that I think has to be presented and infused
24 in all of the briefs and presentations and materials that I
25 offer to the Court, and so that tinge of objectivity is going

1 to be part and parcel of the way I advocate on behalf of my
2 clients.

3 I want them to win, but there is no ellipsis, that is
4 not good for us. We don't ignore the cases that don't go our
5 way; we candidly present them to the Court in the hope that you
6 can dispense impartial justice.

7 I think I will be good with it, I have been thrilled
8 with the opportunity thus far to assist the team, and with
9 that, I am happy to take any questions that you have.

10 *THE COURT:* Thank you, and thank you for the work that
11 you have been doing preceding this interview today getting
12 ready for next week's presentation. I appreciate that very
13 much.

14 As I asked Mr. Longer, and picking up on your comments
15 about giving your full time and attention, are you planning on
16 being involved and/or are you involved in any business
17 interruption claims that may or may not become an MDL?

18 *MR. KELLER:* We are not involved in any business
19 interruption claims, we looked at some and passed on the
20 opportunity thus far. I can't pre-commit to never doing it,
21 but we don't have current plans to do COVID based claims.

22 *THE COURT:* None of us can predict what will arise in
23 the future, but you will give this case all the time and
24 attention it needs and deserves?

25 *MR. KELLER:* This would be the most significant case

1 on my plate and I will give it all of the time and attention it
2 deserves, it will be a lot.

3 *THE COURT:* Your background is unusual in regard to
4 working for a finance company. Tell me a little bit about
5 that, and particularly how it prepares you for leadership here.

6 *MR. KELLER:* I cofounded Gerchen Keller Capital, a
7 litigation funder, that is a different litigation funder,
8 preceding starting my law firm. I think litigation funding is
9 a fascinating space. The point I would highlight about the
10 funding industry is that it is access to capital and access to
11 justice so clients can have the law firm of their choice, not
12 incumbent firms who are well capitalized and don't need outside
13 sources of capital, and that is great, and it gives them the
14 advantage they need to pursue the clients' claims.

15 But there are great and talented lawyers out there who
16 haven't had in their careers yet where they can reach into
17 their own pockets and fund a case for their clients. The
18 client should say between these two firms, I will work with the
19 lawyers I enjoy working with best. And this is to unlock the
20 courthouse doors and get access to justice. We financed a lot
21 of firms that didn't have the backgrounds and pedigrees for
22 them to be self financing. It was a great experience for me.

23 In terms of preparation for leadership here, I met a
24 lot of lawyers as a result of that career. I learned to work
25 collaboratively with them. When you are providing capital, no

1 surprise, people show up and want to work with you. I have
2 worked with colleagues as part of this litigation, and that
3 experience prepares me well for the tasks ahead.

4 *THE COURT:* Okay. In terms of, I guess, given the
5 nature of the work that you are interested in and have shown
6 talent in and being called upon by the current team to prepare
7 for next week in briefing, do you see your role in that and
8 others who are focused in law and briefing as working with
9 Defense, collaborating with Defense?

10 You were on yesterday, so there was a lot of talk
11 about collegiality and collaboration, and not only within the
12 leadership team, but with Defense. You spoke about prior
13 experience in doing so with other cases. What is your view
14 from the perspective of a law and briefing person and the role,
15 if any, or if even applicable, vis-a-vis Defense?

16 *MR. KELLER:* I think there is a significant role, law
17 and briefing is going to have to work with all of the other
18 teams. There is going to be a fair amount of opportunity to
19 collaborate and narrow issues with the other side.

20 I am a former Defense lawyer. Mr. Longer brought up
21 Vioxx, the firm was on that side of that case. I work well
22 with the other side. I have started that process, and I can
23 call them a friend. I look forward to continuing working with
24 them, and only bring disputes that have to be, your Honor,
25 brought to the Court.

1 *THE COURT:* I will conclude with a similar question to
2 what I asked of Mr. Longer. Speak briefly about Daubert and
3 how you see motion practice dovetailing with the life of the
4 case, the needs of the case, the evolving science. Do you have
5 views on that? In summary, it is a big topic.

6 *MR. KELLER:* I think there are going to be early
7 motions that your Honor is going to be facing. There are
8 foreign Defendants here who raise jurisdiction ramblings. I
9 anticipate you will see 12(b)(6) motions with part of the
10 claims. Mr. Longer covered that topic well, it is an important
11 one, and there are differences between the brands and generics
12 and maybe differences between prescriptions and over the
13 counter.

14 To your question about Daubert, your Honor
15 appropriately alluded to the fact that we need to make sure we
16 have a lengthy off period for the science to be crystallized
17 and for the experts to be able to do their important work, so
18 prematurely getting to that probably is not right, and those
19 would be significant topics.

20 Not giving anything away for next week, I anticipate
21 Daubert and the Eleventh Circuit on the issues in this case,
22 the briefing is going to be a significant task and important
23 for the outcome of the case for both sides.

24 *THE COURT:* Okay, thank you so much. In the interest
25 of making sure everyone is heard, because everybody has so much

1 to share, I appreciate the work you have done and application
2 and presentation here today. Thank you, and wishing you a nice
3 rest of the day as we continue through.

4 MR. KELLER: Thank you, your Honor.

5 THE COURT: Okay. Okay. Mr. Yuhl, good morning.

6 MR. YUHL: Good morning, your Honor.

7 THE COURT: How are you?

8 MR. YUHL: Well. We have been at home since
9 March 19th, this is the only time I have gotten up at 4:30 in
10 the morning and put on a suit and tie. It feels good to see
11 you on the bench and a little bit of normalcy here.

12 THE COURT: I know, all habits and normal patterns,
13 setting alarm clocks, kind of went by the wayside. We all
14 needed to give ours a period to deal with what we were facing,
15 and I agree coming back to some semblance of normalcy, if we
16 call this normal, is a good thing for everybody. I am glad
17 this made you happy. I hope getting up at 4:30 was a good
18 thing, not a bad thing.

19 Let me give you an opportunity to give your opening
20 remarks.

21 MR. YUHL: I want to share my thank you to the Court
22 for the work that you have done in putting committees together
23 over this strange time period the last couple of months. It is
24 really important, as a lot of our colleagues articulated, to
25 get this case on a sure footing so we can move it forward. It

1 is going to be complex, it will have a lot of moving parts. At
2 my firm we call it three dimensional chess, there is going to
3 be a lot of that going on in this case. That is the part of
4 working on mass torts and complex litigations that I enjoy, and
5 like, the strategizing portion of it.

6 I am very impressed with the four candidates that
7 preceded me. I am not sure I could talk about the law and
8 motion issues, I enjoy it, but I prefer to have the experts do
9 that. I like science, I like depositions, I like getting to
10 cross-examination, and I like trial. That is one of my
11 strengths and a large part of my experience at this point, as
12 well as folks talk about being team players and so forth. One
13 of the advantages I can bring to a large group like this is
14 being able to step back and listen to the group and offer --
15 identify perhaps obscure issues and unique approaches to
16 getting issues resolved.

17 As I pointed out in my application, my law firm,
18 although I like to say is small, but mighty. Los Angeles is a
19 smaller legal community than most people realize, we know each
20 other here. There is always the usual cast of characters in
21 cases that seem to show up on everything and then there are the
22 law firms that seem to show up where they are least expected,
23 but always seen, but there is a little bit of contradiction.
24 That seems to be our firm.

25 My brother and I are former defense lawyers. As

1 partners in this firm, we started in 1995, and we tried hard to
2 preserve the reputation, sort of the legacy of the Yuhl name
3 because my dad was a prominent neurosurgeon in Los Angeles for
4 50 years. He operated on a lot of people, so the good and bad
5 of that, of course, is, oh, you must be a Yuhl, which I get a
6 lot, but it is also something that we've worked very hard to
7 emulate and preserve here.

8 But I was exposed to medicine, going around with my
9 dad who was a Doogie Houser type of guy, the younger doctor in
10 the State of New York in his 20's, that kind of guy, a great
11 guy, so he got us involved in medicine early. We are two boys
12 in a family of eight. I have six wonderful sisters, all
13 accomplished, I am a proud father of the daughter's club, I
14 have three of my own. My wife was born in Hong Kong and went
15 to UCLA. You know, keeping on that topic of diversity, I know
16 it is of interest to you.

17 I pointed out that I serve on the Judicial
18 Appointments Committee, appointed by Jerry Brown, who shared
19 your views on the importance of that and moving forward, and
20 so, I work very hard to interview and nominate judicial
21 candidates here that share that same view of diversity. So, I
22 am on board with that.

23 Even though probably outwardly you would look at me
24 and say, where do you fit on the diversity spectrum, it is not
25 the outward appearance, it is behavior and approach and

1 attitude towards things. I am impressed that you are
2 emphasizing that in the group, and the women who have
3 interviewed with you, these lawyers are amazing. You have a
4 great group of people to choose from.

5 In terms of my personal experience, I tried a lot of
6 cases, especially early on in my practice. I love the trial
7 work. My availability is good right now. I was very busy in
8 2019, two large trials I prepared for. Amtrack, that settled
9 on the courthouse steps in September. A few weeks later, it
10 went from November 4 to December 20, in Port Orchard,
11 Washington, a medical malpractice case, which resulted in a
12 very nice 23 million-dollar verdict and my reward for that was
13 it immediately went on appeal.

14 I've worked with Mr. McGlamry for going on nine years,
15 that relationship evolved into a friendship, and several other
16 partners in his firm. That will continue whether you appoint
17 me to leadership or not. I am proud of that. I've heard
18 wonderful things about Special Master Dodge. Wright Medical is
19 winding down, we have several matters in JCCP. We hope we can
20 settle, but my availability is there.

21 In terms of the law firm, we by design kept ourselves
22 to a smaller group, less than ten lawyers, but that enables us
23 to have personal contact with every one of our clients. As Mr.
24 Wisner pointed out, we can't lose sight of the clients.

25 I often surprise lawyers when I tell them that I sign

1 every one of them and speak to every one of them and write to
2 them all along the way. Whether I have hundreds or thousands
3 of cases, that has to be done.

4 With that, I want to thank you for the time looking at
5 my application. If you have any questions, I am happy to
6 answer them.

7 *THE COURT:* No, thank you, thank you for sharing nice
8 personal things about your background and speaking about your
9 father and having to live up to a good reputation. I think it
10 can be hard, but it is also a good thing, it is a check on all
11 of us. And when you set the same standards for your children,
12 I know you can put pressure on the children at times, but
13 hopefully at the end of the day they appreciate it.

14 *MR. YUHL:* Well, the intellectual skipped my
15 generation and are in my daughters.

16 *THE COURT:* I feel the same way with my three
17 children. I appreciate what you had to say about diversity. I
18 want it to be clear, it is obvious to the Court, but no one
19 should feel in any way defensive as a white male, you know,
20 that somehow you are not part of what the Court is considering
21 in diversity. I think I made it clear in my opening statement
22 that it is diversity in many different regards, including
23 diversity of thought, diversity of opinion, of background.

24 You shared with me that your wife is from Hong Kong,
25 and you have biracial children. The Court appreciates that,

1 and wants to make sure everybody feels included, whether one
2 has something affirmatively to say about diversity or not. So,
3 I want to be very, very clear about that, and I appreciate your
4 comments.

5 So, I know that Wright Medical has taken up a lot of
6 your time, it has gone over a long period of time, and you have
7 written about it. Tell me how that informs your leadership
8 here if you have a leadership role.

9 MR. YUHL: We were appointed to leadership in that
10 case, it was interesting, MDL was developed and first driven by
11 Mr. McGlamry and his law firm, but it made certain we were
12 going to form a JCCP. The groups came together, the leadership
13 became one leadership group between the MDL and JCCP. Judge
14 Duffy in the Northern District of Georgia, and our judge, Judge
15 Jones, collaborated so we could have a consistent thought.
16 There were only seven lawyers in that group. The nice thing
17 about that was that we were all involved in everything, every
18 aspect of the case. There was a discovery plan, motions,
19 summary judgment, trial strategies, selecting bellwethers.

20 I was fortunate, in my first position formally I got
21 to take the case from A to Z and work on every aspect of it. I
22 gravitated toward science and medicine. Admittedly, I don't
23 know what it is, but maybe it is my background, I have a good
24 rapport with the surgeons and medical experts, so I was tasked
25 several times to reach out to certain doctors and experts and

1 put them at ease to assist us in the case, including key
2 opinion leaders who changed their position as to the company
3 over the years and the product. So, it was a very rewarding
4 experience and that is why I am here, honestly.

5 I want to do it again and, you know, meeting so many
6 of these great lawyers who focused only on a mass tort, which
7 we don't. We are running several one off complex cases,
8 usually involving grain injuries. I am the partner running
9 mass tort, and my brother class actions, and the rest of the
10 attorneys are here to work on everything in between, and got me
11 back here to talk to you. It must be a good experience, it
12 won't go away.

13 *THE COURT:* A case that won't leave.

14 *MR. YUHL:* Hopefully people won't say that about this
15 case.

16 *THE COURT:* No. We may, we likely will. Thank you
17 very much, thank you for sharing your thoughts and application
18 and time this morning. You had to wake up very, very early
19 being on the west coast. Enjoy your cup of coffee, thank you.

20 Okay, our next applicant is Ms. Jung. Did I pronounce
21 your name correctly?

22 *MS. JUNG:* It is Jung.

23 *THE COURT:* I was going for a perfect score in
24 pronunciations.

25 Good morning, how are you?

1 *MS. JUNG:* Good morning. I am well, how are you?

2 *THE COURT:* Fine, thank you. I see also from your
3 application, as with so many, you have a very interesting and
4 diverse background having served time at the DOJ, at the CFPB,
5 and then May Lightfoot. Whether you want to include that in
6 your opening statement or afterwards, I would like to hear
7 about your career trajectory and anything else you would like
8 to say.

9 *MS. JUNG:* Thank you, your Honor. First and foremost,
10 thank you for the opportunity to appear before you. Given the
11 unprecedented circumstances that we are currently under, it
12 would have been much simpler and easier for you to make the
13 selections based on the papers alone. As a PSC applicant who
14 has never participated in an MDL, I truly appreciate this
15 unique opportunity from your Honor for seeking a Plaintiffs'
16 Steering Committee comprised of attorneys with strong
17 leadership skills and substantial litigation experience
18 uncompromised and in fact enhanced by diversity.

19 The pool of current PSC applicants is quite
20 impressive. Many of them have extensive and invaluable
21 experience related to MDL's. My experience and background is a
22 little different but completely applicable and transferable to
23 add value as a PSC member.

24 I have been a lawyer for over 23 years and the
25 majority of my career has been representing the United States

1 Government enforcing civil rights and consumer protection laws.
2 My career has been dedicated to representing marginalized
3 communities of color and individuals who may have limited
4 experience with or exposure to civil litigation and judicial
5 process.

6 As you know, as a DOJ honors attorney, I was expected
7 to quickly become well versed in pattern or practice
8 litigation; appear in any of the Federal district courts
9 throughout the country while valuing the local environment;
10 analyzing voluminous civil discovery with surprisingly limited
11 resources; and to always conduct myself with the utmost
12 professionalism and integrity.

13 My legal adversaries in the civil rights and
14 consumer protection work included police departments, state and
15 city Governments, a private hotel chain, large corporations,
16 and the largest banks and financial institutions in the
17 country.

18 In the last few years of my career I have also served
19 as general counsel for a mortgage company and engaged in
20 compliance regulatory/consulting primarily for community banks
21 and small financial institutions, so I understand the
22 challenges that corporations face regarding regulatory
23 compliance and enforcement agencies.

24 My firm, May Lightfoot, is the first and only female
25 black owned personal injury firm east of the Anacostia River in

1 southeast D.C. It is a small firm, we are comprised of seven
2 attorneys and a hundred percent of us are individuals of color
3 and/or women, the majority African-American.

4 May Lightfoot was intentionally opened in the most
5 deprived area of the district to ensure that the
6 African-American community in particular in southeast D.C. had
7 access to high quality lawyers and representation in their
8 community. This matter and the potential PSC participation is
9 consistent with May Lightfoot's commitment to ensuring that our
10 communities are represented in mass torts litigation in
11 pharmaceutical liability.

12 As an immigrant, I am keenly aware that mass torts
13 rarely get translated to limited English proficient, let alone
14 limited justice system proficient, communities.

15 While the firm and I may not have prior MDL
16 experience, I am a seasoned lawyer. I can provide a fresh and
17 new perspective while also understanding the fundamental
18 requirements of complex litigation involving voluminous
19 scientific discovery, and collaborating with multiple
20 individuals, particularly multiple attorney personalities, and
21 against behemoth Defendants; and most importantly, always
22 remembering that Mrs. McKinney, my client, is the injured party
23 here, and she has trusted us to advocate on her behalf and in
24 her best interest regardless of whether we participate in the
25 PSC or not.

1 I am happy to answer any questions your Honor may
2 have.

3 *THE COURT:* Thank you. What years were you in the
4 Civil Rights Division?

5 *MS. JUNG:* I was there from '97 -- I clerked for Linda
6 Davis, and it was 1997 to 2011.

7 *THE COURT:* What section?

8 *MS. JUNG:* The housing section, with Joan Magonia
9 (phon) as the chief, and after approximately six, seven years,
10 I went to the special litigation section.

11 *THE COURT:* Okay. I was on a Zoom call with the
12 employment litigation section where I served for several years.

13 *MS. JUNG:* I think you were slightly before my time.

14 *THE COURT:* Just slightly.

15 *MS. JUNG:* Yes, very slightly.

16 *THE COURT:* Okay, interesting.

17 So, was -- just in terms of sequence, was the mortgage
18 general counsel work and your consulting firm after or before
19 your work with C if P? About where did it fall?

20 A. Did on J., housing special litigation Section and C if P.
21 about in 2011 when the agency basically started, a start up
22 agency in 2011, I went over there and I left in 2018 and that
23 is when I became general counsel. All of the corporation
24 regulatory clients came at the tail end, that is the most
25 recent experience.

1 *THE COURT:* Okay. You spent a lot of time in your
2 talk and application, why do you think under served and
3 non-English proficient communities may not be targeted by
4 advertisers?

5 *MS. JUNG:* I think when Ms. Rabi (phon) made -- when
6 she started the firm and we were getting involved in mass
7 torts, we recognized not only through conferences and the work
8 we saw, in MDL's there was a derth of representation, not only
9 attorneys of color, and wondering and looking into the fact
10 that a lot of the mass torts Plaintiffs' advertising, and that
11 sort of thing, really was not happening on ethnic media,
12 Spanish language or Asian media, and felt the African-American
13 southeast D.C. community hadn't known about a lot of what was
14 happening with mass torts or even the processes around mass
15 torts, and not unlike other pieces of the judicial system, not
16 a concerted effort to try to bring those types of resources and
17 actions that are available to the community that in no small
18 part has been harmed and affected by a lot of the mass torts.

19 And we wanted to make a concerted effort to make sure
20 they were included and let them know about what was happening
21 with the recalls, about the fact that things are happening,
22 these events are happening in their communities in particular.

23 *THE COURT:* Did you say, or did I interpret the
24 application as suggesting that non-Caucasian groups have higher
25 rates of cancer, different cancers?

1 MS. JUNG: So, it is interesting, I am not in any way
2 an expert in that area, some of the data shows, and I think if
3 you look at a lot of the bellwether -- the bellwether
4 Plaintiffs in many of the pharmaceutical litigations, there are
5 certain communities because of historical environmental
6 adjustments that have effectively been the bellwether
7 Plaintiffs.

8 I think that is something we wanted to perhaps explore
9 a little bit more, a little bit with looking at the
10 environmental injustices, they could still be bellwether
11 Plaintiffs, and certain environmental injustices, that is not a
12 reason why we should exclude them and not a reason why we
13 should not get more Plaintiffs to be part of the pool to cast a
14 wider net to allow more individuals of color to be potential
15 bellwether Plaintiffs.

16 It is something that May Lightfoot wanted to do, some
17 education in the D.C. communities in particular to ensure that
18 folks can make their decisions and understand how they are
19 exposed and what their potential remedies are, and not exclude
20 them because they are not a 30-year-old white male who lives in
21 the suburbs and has had health care -- quality health care his
22 or her whole life. That is something we wanted to actually try
23 to explore and understand.

24 It is interesting, this is a side note, and also in my
25 limited research when I started getting involved with Zantac,

1 Koreans in particular have the highest rate of stomach cancer,
2 one of the cancers that exist, from my understanding, that will
3 be one of the key cancers that may potentially cost some folks
4 to be candidates for the bellwether Plaintiffs.

5 So, the fact that that existed, and I know as a Korean
6 immigrant, there is not a lot of advertising or media outreach
7 regarding mass torts in the language, in the Korean language,
8 so that is something that we also want to grasp and make sure
9 there is more exposure to that.

10 *THE COURT:* Thank you so much. Thank you for sharing
11 your background and thoughts and some of the unique highlights
12 in your application, I very much appreciate it.

13 *MS. JUNG:* Thank you, your Honor.

14 *THE COURT:* Thank you.

15 Good morning.

16 *MS. ROARK:* Good morning.

17 *THE COURT:* You have a very interesting application.
18 I look forward to listening to you in your opening statement.

19 *MS. ROARK:* Thank you for the opportunity to present
20 this to the Court today. I have been practicing law for 20
21 years at Bryant Law Center, a small firm in western Kentucky,
22 or Paducah, Kentucky. Both of those factors set me and our law
23 firm apart as somewhat unique, and additionally, Judge, I think
24 my background, as you spoke, does set me apart.

25 I began my career practicing law as a criminal defense

1 attorney, that grew very quickly. I did legal research,
2 extensive detailed motion practice, and just worked hard trying
3 cases in the courtroom.

4 For many years I tried cases in every area of the law,
5 starting with misdemeanors to capital murder cases, and did
6 that in Federal Court as well as State Court.

7 One thing you talked about and asked questions about
8 over the last two days is civility in the courtroom and zealous
9 representation. One thing I learned early on in my courtroom
10 experience is that you have to be a zealous advocate, but that
11 you also have to have civility.

12 Unfortunately, I have seen more and more attorneys
13 that do not have civility. The key is you have to leave that
14 zealous advocacy in the courtroom, you have to leave it -- you
15 cannot get personal. And I have seen some of the attorneys
16 that are so good at doing that and some that aren't.

17 Some of my best friends are attorneys that I have been
18 on the other side of the courtroom with over and over, and
19 honestly, those are the attorneys that I can work the best
20 with. It is the best results for my client.

21 I think that is the key, you have to leave those
22 arguments in the courtroom. You have to leave them there, you
23 can't make it personal.

24 Your Honor, our firm is located in western Kentucky,
25 we have seven lawyers, we have grown somewhat into a nationwide

1 practice, and that has allowed me to develop my litigation
2 experience across the country, and to develop some mass tort
3 experience in class actions.

4 In doing that, it was mainly in train derailment --
5 train derailment cases from Pennsylvania to West Virginia, that
6 is where I have developed complex litigation experience. We
7 also had a class action in consumer cases. My passion has been
8 in the recent years, and what I have been transitioning my
9 practice to, has been in defective drugs and medical devices.

10 The reason for that is, when clients come into our
11 office -- and honestly, we are the only firm in our area, in a
12 ten or 15 countywide area that does defective drugs and
13 defective medical devices. When people come in they don't know
14 what is wrong because they are taking these drugs, and they
15 think it helps them, and they find out, unfortunately, their
16 quality of life will never be the same.

17 Because of that, it has given me a passion to help
18 them, and to fight for those clients.

19 I think a couple of interviews ago someone said they
20 talked to every one of their clients in mass torts. In our
21 firm we do that as well, we have a personal relationship with
22 them.

23 Your Honor, I understand that I'm one of several -- a
24 handful of people that has never served on an MDL in
25 leadership. What I do want you to know is that in everything I

1 have done in my practice since I got out of law school, I feel
2 like I have been in leadership. I tried cases on my own, I try
3 cases with cocounsel, whether it is a capital murder case or on
4 a team in a mass tort for train derailment. We have had four
5 or 500 cases.

6 There is a lot of talk about the staying power as far
7 as financially. We do have that power, and I do want to say
8 that now we have no debt, and we have been financially invested
9 in many cases that -- where we have to put up a lot of money.

10 In fact, we have had cases in the -- that last seven,
11 eight, nine years, and we have had other firms that have not
12 paid their financial obligation where we had to pay it. We are
13 invested in this case financially and we understand the
14 long-term financial commitment.

15 Also, I am invested in time, I am excited about the
16 opportunity, if your Honor is willing to give it to me, to
17 serve in leadership. I love this case, and I know that is
18 strange, but I want to help my clients in this case and I want
19 to be able to not only represent them, but to dig deeper and
20 spend time on this case in any way possible.

21 I have done everything from complex litigation
22 information, taking depositions, to being involved in the
23 discovery, to expert preparation, motion practice, and I am
24 willing to do anything on this case, but I want to be involved
25 deeper in litigation in an MDL, and I am willing to help in any

1 area I can, and I can promise you I will work hard and I will
2 make you proud that you made me a member of this team.

3 Thank you.

4 *THE COURT:* Thank you, and thank you for putting
5 yourself out there to apply. It is never easy to apply for
6 anything, really, because you are putting yourself out there,
7 particularly the first time. It takes a lot of courage, but I
8 tend to be of the belief that we grow personally when we put
9 ourselves out there. Even if we don't get what we want, it
10 extends that and we learn from experience, and I applaud you
11 for applying as this would be your first time serving on an MDL
12 in a leadership capacity.

13 So, tell me how you came to Zantac specifically. You
14 spoke about loving the case, and I know that you looked at
15 the -- I looked at the census data, I know the number of cases
16 you filed. How did you come to Zantac or did Zantac come to
17 you?

18 *MS. ROARK:* Well, the other cases we were involved in
19 was Roundup and I -- I was able to be involved in mass torts.
20 I heard Brent Wisner speak about it. I knew nothing about
21 Zantac, I didn't know there were even problems. I saw Brent
22 afterwards, and I don't know if he remembers this at all, and
23 began to question him. I was almost immediately sold after I
24 questioned him. I did have to go back and discuss it with my
25 firm, this is a popular drug. It took me several months to

1 convince my firm to invest the money into it.

2 So Brent, even back in April of last year, he knew his
3 facts, he knew the evidence, and he convinced me of the science
4 even at that time. So, I continued to research it. We have an
5 investigator in our office, I asked him to help me look into
6 it, and at that time we did look into it. The more I looked
7 into it, the more I was convinced. The drug had been in the
8 market for 30 years, and it was not only sad, but upsetting
9 that there was something on the market for this long that had
10 hurt this many people, and I wanted to get involved and help
11 the people who were injured.

12 *THE COURT:* All right. Terrific. Thank you so much
13 for applying and seeking a leadership position in this case and
14 for sharing your background and your firm experience, and I am
15 grateful that you applied. I want to thank you.

16 *MS. ROARK:* Thank you, Judge, I appreciate it.

17 *THE COURT:* Okay, take care.

18 Okay, good morning, Mr. Crump, how are you?

19 *MR. CRUMP:* Good morning, your Honor, fine.

20 *THE COURT:* Thank you for appearing and for your
21 application, and with your own different background in and of
22 itself from our preceding applicants, let me turn it over to
23 you for your opening statement and background and experience,
24 and why you are seeking a leadership position.

25 *MR. CRUMP:* Thank you, your Honor, and thank you for

1 allowing me to be considered for this leadership structure.

2 I grew up and served in the 82nd Airborne, served my
3 hitch in the Army, and went back to college. I was in the
4 Reserves and I was activated and served in Desert Storm, Saudi
5 Arabia and Kuwait, and I went back and finished law school and
6 became a first generation lawyer.

7 *THE COURT:* Hold on, we have had about two
8 interruptions of static, I don't want that to interfere with
9 your presentation.

10 *MR. CRUMP:* I will speak up.

11 After graduating law school, I spent four years in
12 employment and civil rights security in Mississippi, the next
13 four years was litigating on behalf of nursing home residents
14 in south Mississippi, and after that period of time, I then
15 made the transition into pharmaceutical and medical device
16 cases. So, for the past 15 years, I have been working on these
17 types of cases.

18 What I believe, your Honor, I bring to the table is
19 that experience. As I said, I have been doing this for 15
20 years. My partner, Mark Davis, has been doing it for 25 years,
21 so I spent my time learning from him and I believe I received
22 my first leadership appointment within two years of this.

23 The structure of the firm, we are medium sized, 15
24 attorneys and 50 support staff. Our firm, 90 percent of the
25 practice is pharmaceutical and medical device litigation, so

1 each one of the attorneys develop their specialty area, whether
2 it be for younger attorneys, document review, for some of our
3 mid-level attorneys that of science or structure of discovery
4 or whatever the case may be. So the appointment of my firm, I
5 believe, brings all of that to the table to support the
6 leadership in this litigation.

7 The second thing, your Honor, is inventory size. You
8 can see from our census numbers, we have a large inventory.
9 The cases that we have added since then is around 2400 clients,
10 and it is not just the -- I don't say that, your Honor, just
11 for the numbers.

12 From the perspective of our personal philosophy, if we
13 have an inventory that large, we want to have a voice in how
14 our clients' cases are in fact prosecuted and handled within
15 the MDL, to have a voice on the Plaintiffs' leadership
16 structure to move those cases forward in the best manner we see
17 fit, while collaboratively working with all of the other firms
18 that have cases in the leadership structure.

19 Finally, your Honor, I think just the historical track
20 record of our firm shows that we have a proven financial
21 background to be able to support and pay assessments to
22 maintain a docket of costs until the litigation concludes. So,
23 that financial viability is not just for our firm, but as far
24 as the litigation as a whole is one of the assets that we
25 bring.

1 Finally, your Honor, and along those lines, I would
2 implore the Court to, as Mr. Longer had stated in his
3 presentation, to have a larger PSC.

4 This is in fact a case that involves many Defendants,
5 many and various types of injuries, cancer injuries, it is
6 going to take manpower. But in addition, part of the role of
7 the Plaintiffs' leadership structure is in fact to financially
8 support and move forward the litigation, and that is much
9 easier to do with more people at the table, more people
10 contributing to the ultimate goal of moving the litigation
11 forward to a successful conclusion.

12 With that being said, your Honor, I will pause and
13 take any questions that the Court has.

14 *THE COURT:* Okay, thank you.

15 So, I do see that you have a high number of unified
16 cases, I think you indicated you requested medical records for
17 all of those; is that correct? Did you request medical records
18 for all of the unified cases?

19 *MR. CRUMP:* With all of the cases except the ones
20 signed by -- since the census, we are working remotely as a
21 firm, our entire law firm. With the exception of the newer
22 cases, we have requested medical records to confirm the actual
23 injuries and whatever proof of use for the claims.

24 *THE COURT:* You haven't received them yet?

25 *MR. CRUMP:* We have received some, your Honor. One of

1 the issues Plaintiffs' lawyers are having due to COVID, medical
2 records requests are being pushed to the back, and rightly so.
3 They are coming in and we're getting those as a matter of
4 course.

5 *THE COURT:* Okay. So you spoke about -- I wanted to
6 ask your views on the structure. You spoke about a large PSC.
7 Is there anything else you wanted to offer in terms of your
8 insights about the overall structure of leadership other than
9 there should be a large PSC?

10 *MR. CRUMP:* There is, I would offer a co-lead system
11 that, in furthering the efforts of diversity, I would also
12 propose that one of those co-leads be a minority, and in fact,
13 in our application, in Appendix C, we proposed Jennifer Moore
14 to be one of the co-leads, but I think, your Honor, a co-lead
15 PSC system is the best course of action. I understand a lot of
16 litigations have executive committees.

17 I think at the end of the day, as the litigation moves
18 forward and things get busy, the PSC members get somewhat lost
19 in the shuffle when there is an executive committee that begins
20 to take over and make decisions without consultation of the PSC
21 themselves.

22 *THE COURT:* Can you speak a moment about lessons you
23 learned from mesh and how they might apply here, just briefly?

24 *MR. CRUMP:* Judge Goodwin's structure handling those
25 cases, when we started out in mesh, we knew it was going to be

1 a big litigation, but we didn't know how big it was going to
2 be.

3 That litigation started out as the Bard solo systems,
4 it was not just one company, but one particular series of
5 products, and as the litigation began to grow, Judge Goodwin's
6 aspect of having co-leads per Defendant, per -- because each of
7 them were different, they were different MDL's, so that in and
8 of itself was, I think, an easier thing for him to handle,
9 whereas here, we are talking about the same product with
10 multiple manufacturers over a period of time.

11 But I think that my -- and I don't want to harp on
12 this, your Honor, but my point is when the MDL started to
13 explode and those Defendants were being added and other MDL's
14 were being added, Judge Goodwin utilized coordinating counsels.
15 He had three coordinating counsels appointed and co-leads made
16 up of the committee and at that point the PSC, which is an
17 exception, was 54 firms, and I think firms were actually added
18 after that. It was a credible way to handle that particular
19 case.

20 I think if those had attempted to jump in on one MDL
21 or one umbrella, the wheels might have fallen off.

22 *THE COURT:* Okay, interesting. One last question:
23 How do you think the register could be used here to advance the
24 MDL (inaudible)

25 Start again, the audio problem came back.

1 MR. CRUMP: I think the registry and data within the
2 registry as it is built out can be utilized for the purpose of
3 bellwether examination and finding out from your Honor's
4 perspective and the parties' perspective what are the
5 representative cases here in the MDL with different injuries
6 and other ways. And I guess one of my favorite parts of an MDL
7 is the process of the bellwether committee in which those cases
8 are screened and presented to the Court, here are the
9 representative cases that need to be tried in the MDL for your
10 Honor to choose from, however you decide to do that.

11 In putting those representative cases together, the
12 information in the registry and the census can be utilized in
13 to weigh factors to determine by a point system or however the
14 Plaintiffs are going to choose the bellwether cases, but also
15 to provide your Honor with that representative nature of those
16 cases.

17 And additionally, at the end of the day, as a
18 Plaintiff's attorney I am always thinking about settlement,
19 that potentially was early information utilized in the
20 discussions of settlement in the settlement process.

21 THE COURT: Okay, all right. Thank you so much, Mr.
22 Crump, I appreciate your time and your application.

23 MR. CRUMP: Thank you for your time, your Honor.

24 THE COURT: What I want everybody to know, we are
25 going to take a brief ten minute break. Hang in there, Mr.

1 Leopold. I made a slight adjustment given that we have more
2 applicants this morning than we necessarily have in the
3 afternoon, so we are going to likely end after Mr. Schlessinger
4 this morning and pick up with Mr. McGlamry in the afternoon. I
5 don't want anybody to worry about there being enough time for
6 everybody.

7 We will take a ten-minute break. Don't leave the
8 meeting, keep yourselves muted and your video off, and we will
9 begin with Mr. Leopold. Thanks so much.

10 *(Thereupon, a short recess was taken.)*

11 THE COURT: Okay. We are back and the next applicant
12 is Mr. Leopold.

13 MR. LEOPOLD: Your Honor, can you hear me?

14 THE COURT: I can hear you, I cannot see you.

15 MR. LEOPOLD: Okay. There you go.

16 THE COURT: I can see you and hear you. Sorry for the
17 interruption.

18 MR. LEOPOLD: We are both in beautiful weather.

19 THE COURT: Yes, it is incredible. I don't remember a
20 spring like this in a long, long time.

21 MR. LEOPOLD: Nor do I. This morning was beautiful.

22 Your Honor, would you like me to start now?

23 I think since we -- I've appeared in front of you for
24 many, many years in the State Court bench and Federal bench,
25 you know my background professionally and otherwise, so if I

1 can just start getting into some things, I think it might be
2 appropriate.

3 First, I would like to thank you, that goes without
4 saying. In these very interesting times to have you take the
5 dive into the computer world for this litigation is quite
6 helpful and helps moving this matter forward. It is always a
7 pleasure to appear before you.

8 I also want to thank -- she doesn't get a lot of
9 credit, I know how difficult this is by Zoom. I want to thank
10 Pauline, your court reporter, who has to get all of this down
11 without people in front of her.

12 I want to walk through issues that are most prominent,
13 the more substantive structural issues for the litigation that
14 I see, if that would be okay with you.

15 *THE COURT:* Sure.

16 *MR. LEOPOLD:* Let me start, you asked this question a
17 couple of times this morning, you may or may not know.

18 Our firm, I merged my firm many years ago now, with
19 the main firm out of Washington, D.C., we are doing the
20 insurance interruption cases. I am not in any way, shape, or
21 form involved in the cases. I do get and have gotten a lot of
22 referrals, as you can imagine, locally here in West Palm Beach
23 and the state, and all I have done is refer the matters to the
24 partner handling that litigation. I will not be involved in
25 any way as relates to that.

1 As relates to the leadership structure, which is an
2 important issue and for the last two days you are spending
3 time, often times when I talk to Courts on the leadership
4 structure, I talk about the vision structure. There are three
5 ingredients in having a good leadership structure. One of
6 them -- and both of these are on the bottom structure. One is
7 leadership skills to be able to lead a large group of people,
8 to get them to all filter under one umbrella, to work together
9 as a team, if you will, because essentially this is clearly not
10 a sport, but in a way it is a team, and you have to organize
11 those individuals. On the left side is the leadership being
12 able to lead a group of people and work well together with
13 those individuals.

14 The second aspect on the bottom rung of that triangle,
15 if you will, is organizational skills. Part of a good leader
16 is to truly organize a large group of people all filtering
17 toward the same goals and aspirations.

18 Thirdly, one of the most important aspects of it,
19 especially in these types of cases which I have been quite
20 involved in the last number of years, the good, bad, ugly and
21 ethical issues, that is the top of the pyramid. We have
22 ethical duties to litigate the case and move the case, to
23 protect the Court, the Court has to be protected, and that we
24 as professionals are doing the right thing for all litigants.
25 Often times it works well during litigation and often falls

1 apart, quite candidly, over fees on one side, the Plaintiff
2 side.

3 The NFL concussion litigation that has gone on for
4 years post settlement is not a lot of good reading of case law,
5 the facts of what has happened in terms of leadership
6 structure, those are the three core pillars, if you will, that
7 has to go into the structure of the leadership aspect.

8 In the particular case here, I think a four member
9 structure of leadership is quite important.

10 You have a diverse group of claims being litigated
11 here in the class aspect and in the personal injury aspect,
12 medical monitoring as well, and those particular structures
13 have to work together, but there are also competing aspects to
14 those. So, the leadership structure has to be unified in how
15 they pursue the case, and as part of that have a good PSC
16 executive team. That I think has to be quite significant here
17 because of the diverse issues that are involved not only in
18 terms of the legal issues, medical issues, but also because of
19 the three various different kinds of claims that are being
20 undertaken here.

21 And again, we have to be very mindful that there are
22 some conflicts that a -- not a lot of Courts grasp as relates
23 to those three different areas. When I say conflicts,
24 primarily as you get towards litigation of a trial, number one,
25 and number two, a lot of conflicts that can arise. I have

1 dealt with this extensively in the Flint litigation related to
2 settlements because when you have multiple claimants out there
3 such as a class and as individuals, the leaders can handle the
4 global aspects of settlements, but not drill down on the values
5 of the claims. That is when you get into ethical issues,
6 subclass counsel might have to be involved handling the sub
7 handling of the damages. There are a lot of multiple aspects
8 of the claims that are not brought up by leadership in these
9 cases and there are a lot of objectors at the end of the day if
10 you are not careful.

11 As relates to leadership, I am not one to stand on a
12 pedestal about myself. I can say I think I add a lot of
13 experience to the leadership team, whether a leadership or PSC,
14 whatever the Court believes is appropriate, based on my
15 background and experience. I think I add a lot with
16 organizational skills that I can bring to this litigation.
17 Professionalism and ethics, I stand on my own as relates to me.

18 I have vast experience in the census related issues
19 that have transpired in this litigation with a group that has
20 already been addressing those matters. We have -- in terms of
21 our last filing, we had over a hundred cases, and we now have
22 about 90 or so, approximately, cancer related cases, so we
23 certainly have a large inventory of these important cases.

24 Also, I think I especially bring a lot of aspects to
25 the two final areas which I think are very important, both of

1 which run on dual tracks in litigation. One dual track is a
2 settlement, and the other is litigation and trial to
3 settlement. I have a vast amount of experience in the cases,
4 to get your arms around a complex set of issues, claims and
5 damages on settlement.

6 And secondly, for over 30 years I tried cases, for
7 lack of a better word, as a trial lawyer on individual cases
8 and complex mass tort cases involving thousands of claimants.
9 How we try those cases being in the courtroom -- no disrespect
10 to all the wonderful candidates that are part of this group,
11 often times class action lawyers are class action lawyers, not
12 trial lawyers. They often bring trial lawyers -- bring trial
13 lawyers in at the end of the day to try those cases. I think I
14 have the level of competency to try and handle matters.

15 I do want to touch upon it, you asked several times
16 and it is an important issue that is significant to me, I do
17 think I have the time to be involved in this litigation. I am,
18 as your Honor knows, lead counsel in the southern border
19 crisis, and some say it is the most important mass tort -- I
20 can say, things may be quieting down, but that case is far
21 along, if you will, in many aspects, in all aspects, per se.

22 And in the other litigation, we work with a large
23 group of people. I think I'm very sensitive to the fact that
24 it is important you have a large PSC, but related to the
25 diversity issue, you having committees being part of the group.

1 As part of committees, I am very aware, and we heard it today
2 and yesterday when I was listening as well, that in order for
3 perhaps individuals such as myself who have not a lot of
4 hair -- I have a lot of gray hair, whatever hair I have left --
5 you have to bring younger people in to get involved on
6 committees and the PSC is a wonderful way to do that, as well
7 as address the diversity related issue.

8 You are aware of my background, we are top heavy with
9 females. The firm I am with now, the Cohen Milstein firm, most
10 of the firm is female oriented. The Court is aware of Leslie
11 Kroger, who is my partner, and Leslie, for example, who I
12 mentored for years, is only the second female president in the
13 50 year history, in the last 40 years, and is president this
14 year. I am firm about those issues, it's an important
15 criteria.

16 If I could touch briefly on substantive issues for the
17 litigation, again, I see it as a two-prong approach. One is
18 the litigation aspect, and also at the same time, I think we
19 have to realize that there also has to be discussions and
20 framework about the settlement structure as well. That
21 settlement structure may never happen, but is something that is
22 an ongoing process from day one.

23 It has been very successful in the cases I have been
24 involved in, whether it is Flint or the Cape Fear contamination
25 case, but those issues are very important.

1 Here, when you have three primary components of the
2 case, PI, economic, or medical monitoring, all of those issues
3 coordinated as one, there are many aspects the Court can handle
4 with the common issues. The bellwether, your Honor can handle
5 some of those issues at the trial level and take care of the
6 common issues before the damage issues or causation issues go
7 back to the various states.

8 So, I think that is very important to be able to
9 handle, and a particular issue the Court asked about yesterday
10 and today is the motion practices as relates to Daubert,
11 dispositive motions for summary judgment.

12 Some Courts want to move the case as fast as possible.
13 Often times that can lead to a settlement, but we have to be
14 mindful and the Court has to be mindful that you have to have
15 discovery take place before the parties -- especially the
16 parties will be in a position to seriously talk about
17 settlement, and that goes as to Daubert related issues, expert
18 reports, dispositive motions, Rule 16 hearings and trial,
19 whether it be bellwether trial or class certification.

20 And on the census issue, so you get core issues. I
21 think it is important to have orders that are very important
22 from a census perspective, and orders that are substantive
23 later on after you pick a couple of bellwether cases. You can
24 do some type of census, there are other related issues, an
25 intervention doctrine could be important here, it is too early

1 to tell.

2 Some of the key guardrails that need to be put up
3 early on should be addressed and talked about.

4 And the last issue that I know your Honor has touched
5 upon in questioning is the issue related to making sure that in
6 the course and scope of leadership that they don't run off with
7 the case and leave the other PSC members and committee members
8 behind, and I think that is very important that that not
9 happen.

10 In my experience, we made a strong effort not to let
11 that happen. Time and expense is very important. Having the
12 authorization of leaders to authorize work and disburse the
13 work across the board is very important. Common benefit orders
14 are very important, and having a larger committee where you
15 have younger people who can be involved so the next time they
16 interview for a case they can say they were actively involved
17 in litigation.

18 I am happy to answer any questions, your Honor.

19 *THE COURT:* Well, I think you covered it.

20 We have had a good amount of time together, and my
21 questions are becoming anticipatory or predictable, which is a
22 good thing, gives you more time to prepare. But you have
23 covered the matters that I wanted to go over with you, Mr.
24 Leopold, in my questions.

25 So, with that, I want to thank you for your

1 presentation, thoroughness, and nice to see you again. Take
2 care and be well.

3 MR. LEOPOLD: Thank you. Be well.

4 THE COURT: You be well, also.

5 Okay, good morning, Mr. Hilliard. How are you?

6 MR. HILLIARD: Good morning, your Honor. I am fine,
7 thank you. I am hoping you are, too.

8 THE COURT: Yes, we are all well here, too,
9 fortunately, thank you very much.

10 Let's see, just checking back here.

11 Since your inventory is so small, I am surprised you
12 are applying for a leadership position.

13 MR. HILLIARD: We are thinking about representing
14 maybe one Plaintiff in this.

15 Let me talk a little bit about that, Judge. As you
16 know, just like you have been observing everybody one at a
17 time, we have had the benefit of this and the overwhelming
18 conclusion from my team is that this is a Court that is very
19 well prepared, has done her homework, and understands the
20 applicants in the case.

21 So, you know our total census submitted is 14,323.

22 There are some things I have learned from that.
23 Because since all I do, as GM is winding down and moving into
24 Zantac -- I will say it so we get this off the table, if I get
25 a leadership role in this case, you've got me. I will not

1 apply for any other leadership role with any other MDL for the
2 life of this MDL. My record affirms that when the judge
3 appointed me as the lead in GM, that is all I did for five
4 years, is that. I would not take the lead -- another
5 leadership role. I take the appointment affirmatively. I let
6 you rest assured that we will be together for the full track of
7 whatever this MDL lays out, and I would love to do it.

8 But what I learned during the review of the data so
9 far is something that needs to be discussed next week and
10 immediately, I think, and that is last week we had a client
11 die, he was a former Chief of Police of a town near Chicago,
12 and I started realizing that we are going to have to start
13 preserving testimony quickly.

14 I got to thinking about how many clients are out there
15 already represented by different lawyers, so perhaps a solution
16 is this: We need to have on both sides, supported by a strong
17 order from the Court, a quick response team if someone learns
18 when they have a client -- and right now, Judge, I will tell
19 you that I have nine additional clients who are very ill, and I
20 will need to take their depositions quickly just to preserve
21 the testimony.

22 The Defendants are going to want to know Zantac
23 issues, other medical issues, and they want information from
24 these folks. Perhaps we have a quick response team who is
25 always ready on a three-day notice, and if I have someone that

1 needs to be deposed to preserve the evidence, there will not be
2 a scheduling complaint, hey, we have to get all of the
3 Defendants to go on the unique area of people who -- if MDMA
4 does cause these cancers and people are not going to survive,
5 the Court and parties want to preserve the testimony.

6 My proposal next week is let's get that done quickly.
7 We have dockets that understand that is important for both
8 sides, and so I wanted to be sure to let you know about that.

9 *THE COURT:* Thank you. No one has mentioned that yet,
10 so I appreciate hearing you views on it, and I am sorry to hear
11 of one of your clients passing away.

12 So, I know you have many medical monitoring claims.
13 Do you see those claims suitable for class action or individual
14 claims, and also in that same vein, would those include claims
15 in all 50 states or some states, most states?

16 *MR. HILLIARD:* The very unique feature of this case to
17 me, Judge, is it hid in plain sight for 30 years.

18 When I started learning about this, I kept asking how
19 did this happen, how did people not know this? And the answer
20 is the ubiquitousness of the cancer. A lot of people died from
21 this cancer and they did not ask, were you taking Zantac.

22 Now you have everyone who heard about it concerned. A
23 lot of people have taken this over-the-counter drug. What do
24 you do with the people who took it and don't have current
25 medical issues?

1 We had that issue in the past. My suggestion is a
2 program that should be set up for these folks with some
3 consultation from medical experts, every year or every six
4 months they are screened and there is a protocol in place. If
5 this MDL reaches a settlement, if they reach certain criteria,
6 there will be a payment structure to those folks, including
7 medical costs. There are some states that allow for emotional
8 stress for fear of cancer. If those Plaintiffs come from
9 states that recognize those causes of action, that has to be
10 factored in.

11 I cut my teeth representing folks not on a class
12 level, I tend to want my clients to have their day in court. I
13 watched GM on the economic side move toward the certification.
14 I know this case will have that as well. I believe individuals
15 who have medical issues, you can address that. If you look at
16 my census, you have folks who will be monitored for the rest of
17 their life.

18 If you are asking me to structure a medical monitoring
19 program, I would start with the idea of what criteria, how long
20 will they be tested, and if the markers are met, what happens
21 then, how can they get treated, where are they going to get
22 treated, who can pay for treatment, and what are the damage
23 models, and they have to come back, they have to litigate.

24 *THE COURT:* Maybe I am missing the answer. Not a
25 class action or a class action?

1 MR. HILLIARD: Not a class action.

2 THE COURT: So, isn't that going to be difficult to
3 manage?

4 MR. HILLIARD: Again, Judge, for me, for my clients,
5 my firm is designed to manage large groups of people, and the
6 clients that I have been asked to represent, you know, I try to
7 be sure that we represent them, so I -- my hope is we have the
8 ability to, if an individual wants medical monitoring, you can
9 do it individually.

10 THE COURT: Okay. Are you representing any personal
11 injury non-medical monitoring clients?

12 MR. HILLIARD: Yes, Judge, we have 3,627 personal
13 injuries, including 12 kids under the age of three who
14 personally took Zantac, so, yes.

15 THE COURT: Okay. And do you have any thoughts on
16 what type of common benefit percentage you think would be
17 appropriate here, given everything you know about the likely
18 trajectory of the litigation?

19 MR. HILLIARD: I have seen anything from 6 percent to
20 16 percent be approved on common benefit percentages.

21 At the outset, it is so hard to determine. When you
22 are faced with that determination, you have to look at the work
23 done, you have to look at how long have we been together, how
24 long have we tried to move this case along, and make a decision
25 based on that.

1 *THE COURT:* All right. I want to thank you very much
2 for your application and for all the work I know that you are
3 doing given how many claimants you have already.

4 Is there anything further you wanted to let the Court
5 know that I have not asked you?

6 *MR. HILLIARD:* I think we covered it, Judge, thank
7 you.

8 *THE COURT:* Okay, thank you so much.

9 Good morning, Mr. Watts, how are you?

10 *MR. WATTS:* Good morning, your Honor. Can you hear
11 me?

12 *THE COURT:* I can hear you fine, and I want to thank
13 you for the work you have been doing with the procedures team
14 and April deliverables discovery. Feel free to share with me
15 anything that you would like in your opening statements about
16 that work. So, let me turn it over to you to give your opening
17 remarks.

18 *MR. WATTS:* First of all, I would like to thank you
19 for all of the new friends you thrust into my life, I really
20 enjoy working with that group. It is quite wonderful to know
21 the people with whom you are working have the fortitude and
22 ability for this case.

23 I would like to share things about myself and MDL
24 experience and maybe some things about the case.

25 Myself, why am I here, why am I still here after all

1 these years, and why I can be helpful in this MDL. I am 52
2 years old now. When I was ten I watched my mother, a teacher,
3 get on a Southwest Airlines flight, I watched her go to law
4 school and -- I call her Judge Mal, but she is my hero.

5 The second thing, I was watching Peter Jennings, and
6 he announced a huge Pinto verdict, and I said I am going to
7 work as a Plaintiff's lawyer and do product liability cases.
8 That is what I did, college for four years, law school three
9 years, and moved back home and have been doing product
10 liability work ever since. I have had my own firm for 23
11 years, since I was 29 years old.

12 The third reason I am here, during that time I have
13 seen litigation make cars safer, I watched litigation and the
14 recall of defective tires. I watched litigation pressure
15 pharmaceutical companies, Vioxx, bad drugs. I am here because
16 I believe in what I am doing.

17 Why am I still here? I am married to my wife of 27
18 years, Tammy. I have three kids, Taylor, Hilary and Brandon.
19 I take my son fishing, and my daughter, who has two
20 grandchildren, accused me of violating social distancing. I am
21 here at a lake house. I have a daughter who is in her first
22 year of law school, and clerking for a judge, and she is my
23 number one professional daughter. I would love to do these
24 cases with her.

25 Where I could be best for the Court is in trial and

1 the settlement table. I have tried a lot of complex
2 pharmaceutical cases. I used to try automotive cases, when my
3 friend and I tried those Leopold had a head full of hair. Now
4 those automobiles are safe, and put us out of business.

5 I try pharmaceutical cases. You name it, I tried it.
6 I finished a book called Trial Guide Start to Finish, my
7 coauthor is a lawyer who defended Pfizer, which I tried two
8 decades ago. I love to be in trial.

9 Full disclosure, in addition to trying a lot of
10 liability cases, I tried one criminal case and I defended
11 myself against a 95 count indictment before Judge Lewis. I am
12 conversant with the problem that is very true for clients, I
13 said I didn't do it. The jury agreed with me in three minutes,
14 but it has given me a special motivation to do early vetting
15 and once burned, never again.

16 The bottom line is, the important part was my wife and
17 kids got to watch it and saw I conducted myself in a way that
18 made them proud. It is part of my life story, I make
19 disclosures, answering questions about it, and I engage in pro
20 bono defense work, making a documentary -- I enjoyed that piece
21 in the New York Times about Mr. Potts.

22 I have flown the 747, I have been trial counsel and
23 lead counsel in MDL's. With respect to this leadership search,
24 I have to tell you, Robert Gilbert and Mike McGlamry have been
25 leading our April deliverables group, and both are fine to me,

1 they provide good leadership. We got a ton of work done and I
2 would be proud to join them in whatever capacity I could be a
3 help with.

4 I don't think it is appropriate to have three white
5 guys as co-leads, I have had five co-leads, and if you go that
6 route, I am a huge fan of Tracy Finken and Jennifer Moore.

7 I have tried a class case, but I am not a class filer.
8 I am convinced with Valsartan and the separate class in a PI is
9 not the way to go, you should throw us together and let us
10 figure it out. I have no doubt that with Mr. Gilbert leading
11 the class side that will be done very well.

12 I am not a science guy, I -- I will learn the science,
13 but my gut tells me that the Court should take advantage of
14 what Mr. Nigh talked about yesterday, the 15-month head start
15 with the Valsartan group, and he has knowledge about MDMA, and
16 I marry that with the tremendous cancer causation knowledge in
17 the case. I like that both constituencies are represented on
18 that, law and briefing.

19 I used to be one, but with Longer and Keller, I am not
20 an ESI guy, I did stay at the Holiday Inn Express last night,
21 something like Berman or Williamson, those guys know what they
22 are doing.

23 On the issue of diversity, diversity is very
24 important. One partner -- I am a quarter Puerto Rican, my
25 mother blew that for me when she failed to teach me Spanish.

1 My grandfather was Norwegian and married a Puerto Rican. My
2 firm has 111 employees, 76 are female.

3 I cannot recommend highly enough Tracy Finken and
4 Marlene Goldenberg for a lead position, and Nicole Berg with
5 Ashley Keller's office, people I've worked with in the past,
6 and Ms. Harvey, she sounds like an obvious addition to a
7 science team.

8 The most important thing on diversity, this age
9 diversity thing is really important. I remember what it was
10 like to be the youngest lawyer in every room. I graduated from
11 college fast and was a 21 year old lawyer, and I had to stay --
12 I believe in the power of mentoring. When I try cases with my
13 lawyers, I do it together with them, we teach them. I have 13
14 law clerks working for me this summer, not because I need that
15 many law clerks for hiring purposes, but we get more out of the
16 law clerks than they do in terms of keeping everything fresh.

17 I would not stop with Marlene Goldenberg, I think it
18 ought to be a larger committee. I would put ten lawyers with
19 12 years experience or less on there. Doing the honor of
20 allowing young lawyers to serve on the PSC itself is good, that
21 larger PSC spreads the funding obligation so they are more
22 likely able to afford it and allows mentoring --
23 (unintelligible).

24 Lastly, on having MDL's, I think that the economics of
25 MDL's get contorted by the expectation of the large -- we have

1 a job to do for our clients, not to extract fees from other
2 people's clients. When you could have upward of a hundred
3 thousand people, 2 percent would be plenty. I am speaking in
4 the minority. I don't like it when the need to create a bunch
5 of hours to show you worked hard takes a simple case and turns
6 it into a complex one. I told a joke, why do we have to take
7 360 depositions to know that PB messed (inaudible).

8 I will continue to be the voice for doing this faster
9 rather than slower. That is my advice to the Court.

10 *THE COURT:* Thank you, Mr. Watts.

11 Let's see if you covered what I was -- one thing you
12 didn't cover, and I will ask you this question. You addressed
13 the questions that I had thought I wanted to ask you.

14 How do you envision bellwether selection given the
15 registry?

16 *MR. WATTS:* I think the registry is very valuable. I
17 think there is a transformation from the way they used to get
18 done to the way it is done now. Back when I first started
19 these cases you had to put a hundred thousand people through a
20 Plaintiff fact sheet and it took forever, it slowed down the
21 litigation.

22 That's one of the reasons I am such a big fan of what
23 Professor Dodge is advocating in the early census. I represent
24 55,000 people in the Syngenta Corn litigation, and I give the
25 credit to Kirkland (inaudible) -- instead of waiting on 55,000

1 people to go through a discovery gauntlet, we used something
2 called the registry and put it into the Microsoft randomizer,
3 and it took 55,000 and put it into the mid hundreds. Mr.
4 Pulaski has done a great job in the census.

5 My recommendation is, in Corn we had the computer
6 select 800, we got a process of deselection, selection,
7 deselection, selection. The 800 became 120. We decided to
8 select 60, at that point you have done census plus, and people
9 deselect. You get down to 40 and take depositions, and each
10 side deselects. You get a smaller number and you get it down
11 from 40 to ten to six to four, and the Court chose which ones
12 would be tried.

13 There is an order in Abilify entered by Judge Rogers
14 on August 10, 2018, I stumbled against it yesterday. She had a
15 random selection down to 40, each side strikes five to get down
16 to 30. The fact sheets were only to the 30 and each side got
17 down to 20, and got down to ten, and most importantly, she
18 said, the Court is leaning towards conducting a consolidated
19 trial.

20 Once we have the science and know which cancers are
21 in, I don't see any reason why you don't use Federal Rule of
22 Procedure 42(a), consolidate multi Plaintiff trials. It is a
23 concept specifically endorsed by the 11th Circuit, in my even
24 case, 873 feed 13 oh four, bill filed suggested that. I could
25 get you briefing on this, but the bottom line is, however much

1 time the Court is going to give us for the trial, I don't see
2 why we can't get one answer and get five or six at the time.

3 *THE COURT:* Mr. Watts, thank you. We covered a lot, I
4 appreciate you sharing your personal thoughts and vision,
5 philosophy, and substantive knowledge. Thank you for taking
6 the time and enjoy the lake house, I could see out your window,
7 looks like a nice day.

8 *MR. WATTS:* Thank you, Judge, I appreciate it.

9 *THE COURT:* Okay, Jennifer Moore. We are still good
10 morning.

11 *MS. MOORE:* Yes, your Honor.

12 *THE COURT:* How are you doing?

13 *MS. MOORE:* I am doing well. How are you?

14 *THE COURT:* Fine, thank you. Thank you for your
15 application and taking the time for interviewing with me today,
16 and let me allow you to tell the Court what you would like to
17 tell me, including the work you have been doing, and I want to
18 thank you for that. So much has been done and has helped move
19 the case along during this time, thank you.

20 *MS. MOORE:* You are welcome. Thank you for the
21 opportunity. Good morning. Thank you for your time today and
22 also thank you for allowing us to appear by Zoom at this very
23 strange time we find ourselves living in.

24 I want to thank you personally for appointing me to
25 the April deliverables team. I appreciate serving in that

1 capacity, and I enjoyed working with a remarkable group of
2 attorneys over the last five weeks. We have been quite busy
3 and put in countless hours. That is something I thrive on, I
4 prefer to be busy, and we have been busy indeed. As the Court
5 mentioned, it is nice to have something to focus on now.

6 I don't shy away from hard work, that is something I
7 want the Court to consider in determining who should serve in
8 leadership. There is no job I will not do, I lead by example,
9 and I find that very important. I do that with my law firm and
10 my staff and the attorneys who work with me know that I will
11 work as hard as anybody else, and most of the time harder, to
12 make sure our clients' voices are heard in the courtroom.

13 I have been working on the Master Complaint for many
14 days now, and I started working on the Master Complaint before
15 the Court sought me for that role. I contacted the procedures
16 team to start that drafting, and I have been working with Mr.
17 Longer, who you heard from this morning, and it is a joy to
18 have the Master Complaint in good shape. Thank you for that.

19 I am also working on the discovery order. I started
20 drafting the discovery order and streamline order, and provided
21 that work product to them so they could take that and run with
22 it, your Honor. More recently I have been working on the
23 privilege order and negotiating that with Defendants, and hope
24 that we are able to reach a product and bring it to the Court
25 and save you from additional work, your Honor.

1 And then, I have also been teamed up with Ms. Whitely
2 who you heard from yesterday, and that has been a wonderful
3 collaboration. She brings her skill set, experience and
4 knowledge on the class side, and I bring my skill set from the
5 personal injury side, and together we have been working and
6 negotiating with Sanofi's counsel on their initial production.
7 Those are the things I have been working on the last few weeks
8 in order to move the litigation for all of the Plaintiffs in
9 this case. That collaboration is another strength I bring to
10 the litigation.

11 I started last fall gathering attorneys across the
12 country, organizing meetings so we can get together and really
13 figure out what is the best way to move this case forward for
14 our clients, and we need to do that in an expedient manner, our
15 clients are suffering from cancer. You heard Mr. Hilliard say
16 he lost a client last week. We are all facing those
17 circumstances and so we want to move this in an efficient and
18 expedient manner. Collaboration is something that is important
19 when you are looking at leadership.

20 One of the things that I have been working on very
21 hard throughout this litigation is building that consensus. I
22 did that when I was asked by my percent to argue in front of
23 the WPNL in the Southern District of Florida, here we are,
24 albeit remotely, and then I was tasked with coming up with a
25 consensus kit from the Plaintiffs' side and liaison counsel,

1 and I am very happy to have the Court appoint Mr. Mad ear all,
2 in his first core job in an MDL, high continue to billed that
3 consensus and collaboration.

4 I am pleased that 36 people recommended me to serve in
5 the leadership capacity for this litigation and that speaks to
6 the confidence that the others have in me in managing
7 litigation, listening, and asking for help, and that is really
8 important in leadership, and I appreciate the confidence that
9 those individuals had in me, including the ones that spoke
10 about it today. And if the Court sees fit to appoint me in
11 whatever role the Court believes is appropriate, I will not let
12 you down or them down or my clients or the Plaintiffs down.

13 That brings me to the final subject. This is my
14 commitment and passion, I love what I do. I wanted to be a
15 lawyer since I was in fourth grade, and I reflected on why that
16 is. At that time my aunt started law school, she was the first
17 to go to law school, and I wanted to be just like her. And I
18 grew up in a small town in western Kentucky, Paducah, at the
19 time the governor was a woman, the mayor was a woman, and the
20 state senator was a woman. I believe little girls can do
21 everything little boys can do, and I carried that throughout
22 all my education, up until the time I graduated law school.

23 I was determined to be a successful lawyer and help
24 other people. I went on and clerked for the Chief Judge for
25 the Seventh Circuit and I moved from Kentucky to San Francisco

1 and worked at a large law firm there, and while I loved the
2 people I worked with at Sun (phon) Rosenthal, I did not love
3 the work. I decided that I would move back home and never
4 regretted that decision, which now has been 18 years ago, and I
5 started my own law firm at the age of 33 and I have been
6 representing injured individuals ever since then. I am very
7 proud of that fact.

8 When I moved home it enabled me to do two things I'm
9 passionate about; one, to help others and provide opportunities
10 for woman to serve. I was fortunate at the age of 32 to be
11 selected as the Kentucky Democratic Party Chair, and in that
12 role I found myself many times being the only woman in the
13 room. I am sure, your Honor, you can relate to that at times
14 throughout your career. And I decided I was going to do
15 something about it. It is incumbent upon all of us to make
16 sure we provide this opportunity.

17 When I stepped down as party chair I started a party
18 called (inaudible) -- ever since then it has been going strong.
19 11 years later, we have 36 women holding office in Kentucky
20 from lieutenant governor down to city council. I am proud of
21 the strides we made in our state and nationally to try to get
22 more woman in office. I carry that over from the political
23 landscape to the legal landscape and try to provide
24 opportunities for women in my own law firm and also in this
25 litigation, your Honor. I have made efforts to recruit more

1 women lawyers on the Plaintiffs' side to participate in this
2 litigation and I am glad to see that those numbers have
3 increased and I am happy to see the number of women who have
4 applied. We have made strides in that way.

5 Those are two things I'm passionate about,
6 particularly in the last few years with people who suffered
7 from cancer. I spent my time with Roundup in the last few
8 years and that is in the process of winding down, a perfect
9 foundation for me to transfer to Zantac and bring that
10 knowledge that I learned from Roundup cancer victims to Zantac
11 and representing the same type of cancer victims here, and I
12 appreciate the opportunity to serve in leadership.

13 I am very proud of what I accomplished in the last 22
14 years and especially having my own law firm here in Kentucky
15 and I built a national practice even though I am here in
16 Kentucky. I am proud of that.

17 One thing I want to bring to the Court's attention,
18 and I appreciate Mr. Watts doing the same thing, I brought this
19 up in my disclosure-- I am happy to answer questions from the
20 Court. I've devoted my career to help others.

21 The one thing that happened at end of the Roundup
22 trial, the judge entered a sanctions order. I would like to
23 put that in context to the Court, if you'd indulge me.

24 *THE COURT:* Sure.

25 *MS. MOORE:* Thank you. We went to trial in the

1 bellwether case. I try one to two trials a year, doesn't look
2 like it is going to happen this year, your Honor, but I
3 typically try one or two trials a year. I was asked to come in
4 and try that bellwether case with my cocounsel, Aimee Wagstaff.
5 Leading up to that trial we were getting orders in from the
6 Court, including the Sunday before we started, received the
7 summary judgment order and Daubert order on that Sunday, and we
8 divided up the trial. I did jury selection and closing, she
9 did the opening, and we split witnesses.

10 During the opening statement the judge called her to
11 sidebar a few times during that opening and, in his opinion,
12 she was violating his pretrial orders. He issued an order to
13 show cause and sanctioned Ms. Wagstaff for her conduct in the
14 opening statement. He gave us until 8:00 p.m. that night to
15 file a brief on why she should not be sanctioned, and the
16 second day of trial the jury was excused and we held a hearing
17 on that sanction.

18 I represented Ms. Wagstaff at the hearing on why she
19 should not be sanctioned for the order. As it turned out, all
20 of the evidence which the judge believed was a violation of his
21 pretrial orders was allowed in during the trial itself. So, we
22 did get the sanction of \$500 for violating pretrial orders and
23 at the end of the trial she must disclose any attorney that
24 worked with her or provided instructions to her for the
25 opening. She disclosed in camera six attorneys. I was one of

1 her attorneys and we were given an opportunity in camera to
2 provide the reasons why we should not be sanctioned.

3 I will tell you that I have appealed that sanctions
4 order. I find it to be outrageous to be sanctioned for another
5 attorney's conduct. The judge did sanction me on October 22nd
6 for \$500. It is the principle of the matter because I pride
7 myself in the respect I show to the Court, judiciary, and
8 justice system. That is why I appealed to the Ninth Circuit.
9 That appeal is sitting at the Ninth Circuit. I did not -- the
10 opponent did not take any -- that is unopposed at the Ninth
11 Circuit.

12 I have never been sanctioned other than that. I have
13 never been threatened with a sanction, so I firmly believe it
14 was wrong, I should not be sanctioned for another attorney. I
15 do not want to take that away from the case or the work that I
16 have done because I am very proud to have represented Mr.
17 Hardeman in that matter. I am proud of the work that Aimee and
18 I accomplished as two women taking on Monsanto and winning that
19 case and getting a verdict which I believe led to the potential
20 of settlement for thousands and thousands of victims. I have
21 been leading that charge with 155 law firms throughout the
22 country to represent their clients after that order came out.

23 I wanted to fully disclose that to the Court and give
24 the context. This is something I take very seriously, I have
25 very strong feelings about.

1 *THE COURT:* I appreciate -- I appreciate you telling
2 me that, and you were very candid in your disclosure. Thank
3 you for taking the time to address it with me during the
4 interview.

5 I will ask one more question, because we've -- one
6 question, and I am noticing the time and how much we have done
7 together, and we have two more applicants I want to try to
8 address before we break for the lunch hour.

9 Do you have any views on a common benefit hold back in
10 this case?

11 *MS. MOORE:* Yes, your Honor. I think the time -- you
12 can look at how much work the April deliverables team put into
13 this and other attorneys we asked to assist. I think a common
14 benefit is appropriate. Are you asking for a percentage?

15 *THE COURT:* If you have any views, yes, if you have a
16 view on that. If you don't, it is fine.

17 *MS. MOORE:* I have been on both sides, on the
18 leadership side and on the side where you have to pay the
19 assessment, and so I understand perspective.

20 I do think it should be a fair amount, and given the
21 large number of claimants because of the number of people
22 exposed to the product and developed cancer, I do think this
23 could be a litigation where the assessment is in the single
24 digits. I haven't formally decided what that would be, I think
25 that is a discussion leadership would need to have and come to

1 a decision and recommend that to the Court.

2 I do think, because of the number of claimants, when
3 you multiply that out it's something that would not take much
4 of an assessment for each individual.

5 *THE COURT:* One last question, if you'd briefly assess
6 in your view how best to vet the cases and narrow litigation.

7 *MS. MOORE:* Well, that is what happened in Roundup,
8 science, litigation, and we -- only a (inaudible) science is
9 developing, and that is something you have to vet your cases
10 on, and you have to be very up front with your client where the
11 science is right now. And I think it is a little premature at
12 this point to determine what cases, you know, when you get to
13 that bellwether selection process.

14 Mr. Watts talked about that, we need to hone that in,
15 and I would like to be part of that discussion because I do
16 think that it is best for all the claimants and for the
17 Defense, too, that we focus on those cases that the science
18 supports, so when we move forward to the bellwether trial
19 process, which is what I like to do is trial work, that we are
20 doing that for the benefit of all Plaintiffs so we have a good
21 representative view that will help us with hopefully resolution
22 at some point in time.

23 *THE COURT:* Thank you so much, Ms. Moore, I appreciate
24 your application and the time you spent with me today. Have a
25 nice rest of the day.

1 Okay. We have two more and then we will have a lunch
2 break. If everyone can hang in with me, we will take some of
3 the morning session applicants and move them to the afternoon,
4 and I think we will be fine with our schedule nevertheless.

5 Steve Nicholas is next. If we could have Mr.
6 Nicholas.

7 There you go. Good morning.

8 MR. NICHOLAS: Good morning.

9 THE COURT: Let me turn it over to you for your
10 opening remarks should you care to make any.

11 MR. NICHOLAS: Thank you. It is nice to have the
12 opportunity to introduce myself and my law firm a little bit to
13 you. We have just one perspective, your Honor, we pride
14 ourselves in this firm of our history of trying cases and
15 success in verdicts. That is what has driven this firm, and
16 decisions as far as getting involved in MDL's, we don't have as
17 much experience as the people before you. That is because we
18 prefer to try cases, and individual cases is what the firm is
19 built on, but that gives us a perspective that is valuable in
20 the MDL.

21 I would agree with Fred Longer and Mikal Watts, the
22 focus of leadership has to be getting cases ready for trial.
23 Good things happen for the Plaintiff when you are ready for
24 trial and I think that has to be the focus for the leadership,
25 and I think I am suited to provide that focus, and provide

1 every decision being made to do that.

2 If I can comment on my law firm and how that qualifies
3 me. We are unique in that we are a collection of first chair
4 litigators here, we are not a bunch of other people. What that
5 means is, when partners are getting ready for trial, other
6 partners show up. We are happy to be the second litigator or
7 third and fourth chair litigator. We will do whatever it takes
8 to advance the case.

9 Secondly, it also means we are willing to implement
10 somebody else's strategy when they are in the lead. I don't
11 pretend that I am going to be counsel in this case, but if
12 somebody is making decisions and other people have to implement
13 those decisions and strategies, our training and experience
14 makes us very apt to do that.

15 While we have historically sort of avoided MDL's, we
16 don't lack the experience. I was involved in Chinese Drywall,
17 familiar with how MDMA works in that case, and spent the better
18 part of several years in the BP oil spill case.

19 BP is a good example of good things happening when you
20 are ready for trial. I don't think that case would have
21 settled the way it settled if we had not been on the courthouse
22 steps when that settlement occurred, and I think that somewhat
23 is borne out by the fact that we took the next decade trying to
24 get out of the bill on that.

25 BP is finally over with, and we filed the remaining 20

1 or so opt out cases, I have the time to devote to the
2 litigation and we have the funds to litigate. And we are happy
3 to join the strong team your Honor put together on the April
4 deliverables team and look forward to working with you on this
5 case.

6 *THE COURT:* Thank you so much.

7 I think you have spoken -- so, you see your greatest
8 contribution, among others, as being trial work?

9 *MR. NICHOLAS:* Yes, all of it goes into place. It has
10 to be viewed through the lens of what is the goal here. If you
11 view it through the lens of getting a good settlement, that is
12 an error. You have to view it through the lens of how do we
13 get this case ready for trial, that gives the Plaintiffs the
14 opportunity to get what they are entitled to.

15 *THE COURT:* Have you worked on other pharmaceutical
16 cases?

17 *MR. NICHOLAS:* We have not, we try medical malpractice
18 and commercial cases. I have tried more commercial cases than
19 any other group of cases. Like any other trial, you have a
20 category of litigation, you learn the science, details, you
21 learn things you never thought you would learn.

22 That is one of the things I have enjoyed more than
23 anything else, and we are capable of learning the science and
24 leading the ball.

25 *THE COURT:* All right. I want to thank you as well

1 for submitting your application and being so patient all
2 morning, waiting for the end of the morning for your interview.
3 Is there anything else you think I should know that you haven't
4 covered in your application or had the opportunity to present
5 here today?

6 *MR. NICHOLAS:* No, the rest is in my application, your
7 Honor.

8 *THE COURT:* All right. Thank you so much.

9 Mr. Scott Schlessinger will be our last applicant for
10 the morning.

11 Good morning, Mr. Schlessinger. How are you?

12 *MR. SCHLESSINGER:* Good morning, your Honor.

13 *THE COURT:* Let me let you get right to it. It looks
14 like there should be a jury behind you and a judge around the
15 corner.

16 *MR. SCHLESSINGER:* I felt like I ought to address you
17 from what I like to call my natural habitat.

18 I am mindful of the hour, and talking about family, my
19 dad was a 60-year attorney, the firm is 65 years in Florida.
20 Shelly told a funny story about country judges, dad was picking
21 a jury and it was the noon hour, and he said to the judge, are
22 we going to break for lunch. The judge said, we will after the
23 voir dire. Dad didn't want to (inaudible) -- if you are
24 seeking parole, you don't want to be the last person in the
25 morning in front of the Parole Board, the fatigue of the

1 applicants wanting to get out of jail --

2 *THE COURT:* Let me assure you, I know you are laughing
3 and joking, I have studied these applications up and down and
4 all around and the census data. That is why my eyes are to the
5 right looking at your appendixes, certifications, and
6 disclosures. I am as fresh now as I was at nine o'clock this
7 morning and eight o'clock this morning. I don't want you or
8 any other candidate to worry where you fall in the lineup.

9 *MR. SCHLESSINGER:* Judge, I really meant it in jest.

10 *THE COURT:* I know that.

11 *MR. SCHLESSINGER:* One thing I will thank you for, I
12 have made this pitch a couple of times before with the two
13 minute clock, and your Honor has not enforced that.

14 *THE COURT:* I have not.

15 *MR. SCHLESSINGER:* It takes a lot of the stress away.
16 I am used to giving an hour and a half, three hour opening and
17 closing statements.

18 *THE COURT:* That we will not do. It is true, I
19 recognize I haven't enforced it. It is your day. For those
20 who have gone longer, I cut back on the questions. I am trying
21 to be equal.

22 I do like to set parameters. I require trial plans in
23 all of my trials and they are intended to be a self regulating
24 mechanism that helps the lawyers and the Court. So, I am very
25 much mindful of the time, but it is your day and everyone has

1 waited long to have their day. With that, let me let you go
2 on.

3 MR. SCHLESSINGER: So, the role that I presently
4 occupy, I consider myself to be a public health advocate. It
5 is because I think I have developed quite an expertise in
6 cancer causing products, in particular tobacco related
7 litigation, cigarettes, which is the number one source of
8 glucosamines including the cancer in this case.

9 Every single case we try, and we've tried as many
10 tobacco related cigarette cases probably as any in the United
11 States, we are talking about glucosamines and how they result
12 in the cancers that a lot of our clients, unfortunately,
13 suffered and died from.

14 But if I reflect on the past, I think that -- South
15 Florida is where I am born and raised, South Florida is where I
16 grew up, trying cases all over the tricity area and different
17 parts of Florida. In the last decade our firm tried, and I
18 tried with them, many dozens of cases often in the lead counsel
19 position. Every single year for the last ten years we have had
20 million dollar verdicts, verdicts in excess of eight figures
21 every year.

22 This last year, 2019, which in our present case of the
23 COVID pandemic does seem a world away, and this year without
24 having trials, one of the things you are concerned about, do
25 you have time. As a trial attorney, I have time. Last year I

1 was in trial pretty much on and off the entire year, as was my
2 firm.

3 The firm works together as a great team. When it
4 comes to team work, we are an 11 man firm, 12 man firm,
5 according to recent accolades, how we punch above our weight
6 against the giant national defense firms who are in this case
7 as well.

8 To give you a cross section of activities we have in
9 the courtroom, including Palm Beach County, including Broward
10 County, West Coast of Florida, we had -- I was involved in
11 trials, my firm was involved in trials, seven major trials
12 starting one trial that bridged the year, one malpractice case
13 including a misdiagnosis of cancer, terrible, misdiagnosis as a
14 benign fibroid that was carcinoma. The expert witness who
15 testified against us was on the hook because in the other cases
16 he acted as a Plaintiff, in my case he acted as a Defense
17 expert. We were able to cross-examine him with favorable
18 opinions he used to give. That was settled during jury
19 deliberations.

20 From that point, we went on a tear and had six
21 consecutive trials, every one a win of a multimillion dollar
22 nature, car wrecks, bicycle wrecks, \$241 million in front of
23 Judge Small, several tobacco trials, and every one of them, six
24 major verdicts, 2 million, 6 million in a car ride accident,
25 2 million, 6 million, 10 million in a tobacco case where I was

1 lead counsel, 37 million in a tobacco case, R.J. Reynolds,
2 41 million in the premises liability case, and to top it off,
3 at the end of the year, I was lead counsel and got a
4 157 million-dollar verdict, 9 million compensatory, 148
5 punitive damages in the largest tobacco products liability case
6 in the last half decade in Florida. And after that -- excuse
7 me -- we were fortunate to receive some accolades.

8 This year I was inducted and traveled to and gave a
9 talk to the Inner Circle of Advocates, a group of a hundred
10 attorneys who do trial work across the country representing all
11 50 states. It is the highest honor I've achieved in my career.
12 I was so proud to be in that group. Mikel Watts was in that
13 group, and we spent time, and I gave a talk on the
14 157 million-dollar verdict in the Inner Circle meeting. That
15 was the last public thing I did before we all got shut down.

16 I got inducted in the Inner Circle, I was put into the
17 LawDragon Big 500, this is an accolade you receive purely
18 organically. Another attorney in my firm got in there, and
19 then we had an award -- I heard a lot of three letter acronyms
20 over the last several days, some of which I hadn't heard
21 before, but one of the three letter acronyms, you may not have
22 heard of this, is courtroom view network.

23 If you put my name into the broadcast website,
24 courtroom view network, it is a network that broadcasts trial
25 life in archives from all around the country, and going back to

1 2012, eight, ten years or so. My smiling face is at the podium
2 in many, many of the major trials broadcast gavel to gavel,
3 some of the content is free. When they gave out an award, I
4 got an award for one of the top ten verdicts in the nation, I
5 was number three, that is for a single case, for that
6 160 million-dollar case. There are clips of me doing my thing
7 with the jury.

8 Some of the other lawyers in my firm got recognition
9 from CVN. This week, as recently as Monday, there was an
10 announcement from the Daily Business Review, I don't know if
11 your Honor looks at that, 2020 excellent award honorees, and
12 that was this Monday, and my firm was recognized under the
13 litigation Defendants for products liability, Schlessinger Law,
14 we got this accolade being 2020 professional excellence.

15 Last year we really had a bang up year in the
16 courtrooms.

17 *THE COURT:* Let me congratulate you on that award, Mr.
18 Schlessinger, and all of the accomplishments. As to not lose
19 the opportunity to be able to ask you, in Juul, are you working
20 on Juul? Is your colleague working on Juul?

21 *MR. SCHLESSINGER:* I am working on Juul. I have early
22 foundational knowledge and understanding of nicotine addiction.
23 I know what Juul is, I dream about it, however, I was not
24 fortunate enough to get appointed to the MDL. I think in part,
25 I just wanted to run that show, I did not apply for PSC as I am

1 doing here. I am applying for any role that helps me help
2 people who know how to try a trial in Florida. That is where I
3 want to be. In the MDL, I tried to be lead, and I just was not
4 able to get into leadership, though I felt that if I was ever
5 going to be lead, that would have been a great place to do it
6 because I was living, eating, breathing and dreaming Juul back
7 in November.

8 Now, I've got to tell you, this COVID, it has
9 discombobulated things to the point of distraction. I am for
10 the first time in my office in the last couple of months, just
11 leaving my home. My dad used to cite a Yiddish phrase and the
12 translation was, man plans, God laughs. I admire that we are
13 doing this so we have things to do, and I have the time, sadly,
14 because I am not in trial, getting ready for trial, thinking
15 about trial.

16 I will tell you what will happen with Juul, right now,
17 it is a virtuous effect of this terrible pandemic that we are
18 facing, and that is, I discuss this with my public health
19 experts, nicotine experts all the time, Juul is dropping -- the
20 use by kids is dropping, they are laying off 40 percent of
21 their work force, moving from San Francisco to Washington,
22 D.C., and when the use tobacco survey came out, instead of
23 25 percent of the kids in high school -- I have kids in high
24 school -- using this terrible nicotine product and getting them
25 addicted to nicotine you are going to see a drop, and it is the

1 social gathering, social distancing.

2 As far as the nicotine electronic devices and the kids
3 should do it alone so they would not be both heard by the
4 parents, texting (inaudible) -- that I heard about from college
5 kids taking over some of the Juul market loss. I am involved
6 in the JCPP in southern California. I love the topic.

7 *THE COURT:* I can clearly see, and if we had unlimited
8 time, I would let you go on because it is fascinating, and I
9 appreciate you sharing your thoughts. I do think we are going
10 to wind down. I do want to thank you, Mr. Schlessinger, for
11 getting out of your house and going to the office and taking
12 your time to share professionally your background and many,
13 many accomplishments, for which I applaud you. Thank you.

14 *MR. SCHLESSINGER:* Thank you.

15 *THE COURT:* With that, I think we'll conclude our
16 morning session. I am looking the at time, it is 12:16.

17 What I would like to say is that we'll return at -- I
18 am going to ask -- let's see. I am debating between 1:15 and
19 1:30. That will give the Court and everybody ample time.
20 We'll say 1:30. For those of you who will leave your camera
21 session on, same as you did yesterday, don't leave the meeting,
22 I am not going to leave the meeting, I am going to mute the
23 meeting and just turn the video off. If you are leaving, make
24 sure you are back by 1:20, so the cohost can let you back in,
25 and there is no issue with you being admitted before your

1 session.

2 We will pick up with Mr. McGlamry, Mr. Maher, Mr.
3 Pulaski and Ms. Boldt, and we will go to session four, and that
4 starts with Mr. Ferraro.

5 Enjoy your lunch, we will see everybody back at 1:30.

6 *(Thereupon, a luncheon recess was taken.)*

7 *THE COURT:* Welcome back, everyone. May I ask that
8 Mr. McGlamry come to the Zoom screen.

9 Good afternoon.

10 *MR. MCGLAMRY:* Good afternoon, your Honor, thank you
11 for this opportunity. It is nice finally to get to meet you.
12 I have heard so many good things about you, and I look forward
13 to this litigation.

14 I applied to try to help lead this group, and that
15 requires respect, experience and judgment, however, I think the
16 main job for me and maybe Bobby and others is to make others
17 shine, and this is about getting the best out of everybody. As
18 I have watched these interviews, and I hope you have seen this
19 as well, of the April deliverables group everybody is gone
20 except me, and you will see Adam in a minute, you will love
21 Adam. Everybody loves Adam.

22 I think you will see, even though they are on their
23 best behavior, except for Michael, you will see that over the
24 past couple of months what is an incredibly talented and
25 experienced, well founded in the law, cooperative, passionate

1 group that is already sort of ahead of the game, and I give you
2 that credit because you have put us in that position, and
3 you've urged us, along with the Defendants, to get things
4 moving and, quite frankly, we have accomplished more in two
5 months then I think most MDL's do in six to nine months.

6 It is a compliment to you and the special master. I
7 hope because of that you will consider the April deliverables
8 group as the core of the PSC, even though I know you will be
9 adding people, which is a good thing.

10 I want to comment about one of your remarks yesterday
11 about diversity.

12 As the father of three daughters, one of which is
13 working with me on this litigation, the third McGlamry in the
14 law firm, and as the husband of a lawyer, I want to thank you
15 for taking your position on diversity. And frankly, I would
16 hope the PSC would be half and half, men and women, and I know
17 we'll deal with diversity in other ways in terms of racial,
18 gender, and young and new and all of that, and I think that is
19 really important in all of this.

20 The only thing I really wanted to add to what was that
21 in my application is my experience in pharmaceutical
22 litigation. I was involved in my first case in 1989, your
23 Honor, that was back in the days when all products cases were
24 individual cases, there were no MDL's that were joined to deal
25 with that.

1 My law firm took on several drug product cases as one
2 of the first in the country, one was Norflex and the other
3 Halcion, and we filed a case Grundberg versus Upjohn.

4 To highlight the difficulties of a pharmaceutical
5 case, when you talk about co-morbidities and risk factors, this
6 was our Plaintiff's situation. We had a woman, Ilo Grundberg,
7 mid 50's, lived in Utah. The night before her birthday she
8 went into her mom's bedroom, unloaded a gun in her mom's head
9 and reloaded it and fired it again, and left a birthday card
10 next to her mom. We filed and prosecuted that case against
11 Upjohn about the drug Halcion. Despite the difficulties in our
12 client's facts, that was difficult, the case turned on the
13 discovery of the validity and reliability of clinical trials
14 and studies.

15 In that case, it settled right before trial, and if
16 you look at the products liability law, that case is
17 prominently cited, and we have been involved in pharmaceutical
18 cases since then.

19 I wanted to say, watching these interviews, quite
20 frankly, I have gotten goose bumps. It feels like to me being
21 back in college about to run out on the field, everybody
22 excited, ready to go. We practiced, worked on it, I am ready
23 to go. I am excited about this litigation, I am confident in
24 this litigation, and I know the people I have been working with
25 also feel that way.

1 Your Honor, how can anybody not like working with
2 Bobby Gilbert.

3 *THE COURT:* I do know from your application you feel
4 strongly about diversity and you have spoken to that just now.

5 Let's see. Do you have a vision for using the census
6 registry?

7 *MR. MCGLAMRY:* Yes. I will say this to you and the
8 special master as well, even though it is unique, in a
9 rational, reasonable and helpful way for everybody, not just
10 the Court, but the parties as well, the parties get
11 information, robust information before they'd get that in a
12 normal MDL setting. On the Plaintiffs' side they get people
13 involved, and hopefully as a result of this litigation and how
14 quickly it is getting started and how quickly it will move that
15 people will register, we hope thousands will register.

16 What that does, that gets us ahead of the game on the
17 bellwethers. We can look at the information, all the different
18 cancers, and all the different situations with Plaintiffs, the
19 states where they are coming from, every particular case that
20 will get on the front end really in the first time on any MDL,
21 and be able to take that information, like fact discovery,
22 expert discovery and motions, we will be able to concurrently
23 get the bellwether situation up and running, which typically is
24 hard to do because you are having to take things in steps,
25 where here we can put it all together and ultimately makes this

1 more efficient and effective, and quite frankly, is a great new
2 way to do this.

3 *THE COURT:* Great, thank you.

4 Maybe one final question. What do you think the
5 Plaintiffs need in terms of staffing and what percentage hold
6 back do you think we would need in this case?

7 *MR. MCGLAMRY:* Your Honor, we can talk about staffing,
8 and if that is in the context of the size of the PSC, I kind of
9 agree, talking about in the 15, 20 range. If you look at the
10 firms involved, those involved thus far and those applicants,
11 they have a lot of resources, not just the people applying, but
12 their firms and other people in the firms, I think we have
13 staffing. Starting small allows us flexibility, it allows us
14 to add diversity and allows us to add expertise as we move
15 forward. I think the most important thing is, however you
16 construct this group, the group will get together and figure
17 out what next to do and how best to do it, and how best to
18 bring on the pieces that we need.

19 To me, I would rather start us small, lean and mean,
20 and figure out what we need. If we need something else, we can
21 come to you and we can all be part of that decision. And if we
22 start smaller, we get to utilize everybody's services. We get
23 to utilize the 20th person as much as the first person, instead
24 of having a larger group, or you are having a harder time
25 trying to include everybody, and if you need somebody specific

1 on the outside, whether that is in science or trial, now you
2 are bringing on more people.

3 I like to start small. Even though we have a smaller
4 number, 15 to 20, that doesn't mean we have a smaller amount of
5 resources. We have some very substantial law firms with a lot
6 of resources, we have plenty of good lawyers.

7 One of the things I will say even about the group we
8 worked with thus far is, you may have thought of them or see
9 some of us in particular slots, one of the things I have been
10 most impressed by, a lot of these -- in fact, all of the
11 lawyers can do a lot of different things, whether or not they
12 have been slotted with science, they have been helping with the
13 class, and class lawyers are helping with discovery.

14 There is a lot on the table right now, and if we added
15 a few people, again, I would hope it would be diverse
16 additions. We have what it takes, and I think we are ready to
17 go, we are very positive, we worked together incredibly well.
18 In fact some of us -- I think Tracy and Adam we figured out
19 don't really sleep at night, because when I wake up in the
20 mornings they are emailing, sending out materials at two or
21 three o'clock in the morning.

22 We have what it takes. We would love to have more
23 people with us and have the flexibility, but I think we would
24 be good.

25 *THE COURT:* Good. Do you want to say anything about

1 hold back?

2 *MR. MCGLAMRY:* Yes. I heard Mikal talking earlier
3 about the hold back being small, and I agree with that, whether
4 it is two, in that range. I think it is important to keep it
5 low for these reasons; one, I want to encourage people to
6 participate, I want them to come into the MDL, I want to
7 coordinate our discovery with theories, and I want people out
8 there not in the PSC, not involved in it, to think we are there
9 in leadership for all of the cases, not just our cases, and for
10 common benefit. A low percentage is helpful because it is
11 plenty, and I think it will send the right message, and I think
12 it is appropriate and, you know, I think we ought to start it
13 soon and get going and we have plenty of people, and it will
14 take care of us.

15 *THE COURT:* Thank you. Thank you for all of the work
16 and leadership you have shown so far, thank you for being here
17 today.

18 *MR. MCGLAMRY:* All right.

19 *THE COURT:* Okay, Mr. Maher, how are you?

20 *MR. MAHER:* Thank you, your Honor, I am fine. How are
21 you?

22 *THE COURT:* Good, thanks. Well, I would like to give
23 you an opportunity to present your opening remarks.

24 *MR. MAHER:* Thank you. First of all, I would like to
25 echo a lot of the compliments that have been given to you and

1 Special Master Dodge in getting this thing going in this very,
2 very difficult time. That is not easy to do, that is not easy
3 to do even if there wasn't the virus issue going on right now.

4 I don't think anybody has missed a beat. I think the
5 committees that have been working so hard the past couple of
6 months have done a fantastic job. I have to tell you that this
7 is one of the strongest application groups for an MDL that I
8 have ever seen. I am very, very impressed with everyone. I
9 think the litigation is going to be in good hands no matter who
10 is chosen, and I would like to be part of it. If I am not part
11 of it, I still feel very, very good about this.

12 I want to be brief, I know your Honor has been a
13 little bit behind this morning.

14 My wife is a cancer survivor, stage three cancer
15 survivor. Cancer is a big part of my life, I understand how it
16 affects people, how it affects families. This is a very
17 serious case, and I think that I am very happy to represent
18 deserving people on this.

19 I am Steve Maher from Winter Park, Florida, just up
20 the road from you all. My firm was started by my father over
21 50 years ago and has been in the State of Florida, we
22 represented the State of Florida against the tobacco industry.
23 My father was the chair of the trial team which started trial
24 in your backyard at the Circuit Court in West Palm Beach, he
25 was instrumental in negotiating a settlement on behalf of the

1 State of Florida.

2 I began my practice in Los Angeles, I went to law
3 school, college in Los Angeles, and I stayed there for several
4 years after law school practicing law. I learned to try cases
5 there and I moved back here in 1991 to practice law with my
6 father. It has been a wonderful almost 30 years doing that.

7 I know my application for leadership has my
8 qualifications in it. I am admitted in California, Arizona,
9 Texas, Florida, New York, New Jersey, Pennsylvania, and
10 Washington, D.C., and until just recently when I went on
11 inactive status the State of New Mexico as well.

12 I don't know anybody -- yet to meet anybody who has
13 passed as many Bar exams as I have, I don't know if that is a
14 masochistic thing. I do enjoy it and I am a CLE junkie, I
15 don't have any problem keeping up with that in all of the
16 states.

17 I try cases as a trial lawyer around the country,
18 including a pharmaceutical case in the Illinois coordinated
19 proceedings, the state equivalent of the MDL, that involved
20 Actos, a diabetes drug that causes bladder cancer. So, I am
21 very, very in tune with the causation issues, and other issues
22 involving any type of cancer case, co-morbidity, et cetera. I
23 tried an MDL case in the late '80's, I had been practicing
24 about a year and a half, an asbestos death case, a two-week
25 trial. I tried medical malpractice, premises cases, nursing

1 home cases, every type of personal injury case there is.

2 I was lead trial lawyer in an incredibly complex seven
3 week long patent trial tried before Judge Patricia Fawsett in
4 the Middle District of Florida. I'm a board certified civil
5 trial lawyer, a member of the American Board of Trial Advocates
6 and the International Society of Barristers. Both of those
7 organizations, they require extensive trial experience to be a
8 member.

9 What is interesting about that, both of those
10 organizations have half Plaintiff lawyer members and half
11 defense lawyer members, and I found that is a wonderful way to
12 develop a collegiality with both sides and an understanding,
13 and I believe I have a very good reputation among not only the
14 Plaintiff Bar, but also the Defense Bar.

15 I have been involved in the pharmaceutical mass tort
16 cases since approximately 2008. A colleague got me involved in
17 the Avandia cases, an MDL in the Eastern District of
18 Pennsylvania before Judge Ruff (phon), and Yasmin/YAZ,
19 testosterone, hip implants, etc. I am a team player, I like to
20 think of myself as a servant leader, I love collaborating with
21 other lawyers, talented lawyers, I love mentoring younger
22 lawyers. I think the diversity issues that have been raised
23 throughout the past couple days are fantastic.

24 I think younger people, especially nowadays, young
25 lawyers are just not getting the trial experience that we

1 got -- us older lawyers have gotten, and I think that this is
2 an opportunity for us older lawyers to mentor younger lawyers,
3 and as Mr. McGlamry said before me, make them shine. I think
4 that is wonderful.

5 My law partner, Jason Fraxedas, is a first generation
6 Cuban American who I work very, very closely with in all of the
7 pharmaceutical cases. He has been involved in trial teams
8 throughout the country, and he is a wizard on science. If I
9 had to do it all over again, I would have put him up as the
10 applicant for this PSC because I think that is so important.

11 A couple of other things I would like to bring up if I
12 could that I heard about this morning. I was very pleased with
13 the common benefit assessment comments made by people here, it
14 is very important to have a low common benefit assessment.

15 We have been involved in other MDL's where there have
16 been ten, 12, 14, 15 percent common benefit assessments, and
17 those are, in my opinion, excessive. They cause all sorts of
18 problems, they cause problems especially with the lower tier
19 Plaintiffs on the matrixes.

20 It has caused very difficult problems and in many
21 cases has turned into a negative net recovery on behalf of the
22 clients. You have issues involved with not only -- even if the
23 lawyers themselves waive their fee, you still have a 15 percent
24 assessment that makes settling almost impossible. Then you
25 have the lien resolution companies that come in, and they want

1 a piece of it.

2 There are a lot of things we have learned in past
3 MDL's that all of us can bring and make it better for this one.

4 I do believe this particular MDL is going to be the
5 biggest MDL in history. We are dealing with a product, a drug
6 on the market for almost 40 years, there are going to be a lot
7 of people. It's the best selling, biggest selling drug in
8 history.

9 One thing I wanted to bring up is bellwether
10 selection. The bellwether selection list is going to be
11 crucial here. I heard Jennifer Moore earlier today say
12 bellwether selection is going to be driven by science. I
13 couldn't agree with that more. Science is developing in this
14 case, and I think we are good to go, have to see where it goes.

15 I like the idea of the census, I think it is a
16 brilliant idea. I also like the idea of the registry. Our
17 firm plans on putting the vast majority, if not all of our
18 cases in the registry, I think. I want to echo what Mr.
19 McGlamry just said, it is going to make bellwether selection so
20 much easier because when we get into bellwether selection. It
21 doesn't do anybody any good, not the Plaintiffs, not the
22 Defense, to have a case selected as a bellwether trial that is
23 not representative of the large majority of the cases.

24 I think that is about all I have. I appreciate your
25 time, and I welcome any questions.

1 *THE COURT:* Thank you, Mr. Maher. You have been very
2 thorough, you covered everything I wanted to go over. So, I
3 guess one of the benefits of coming toward the end, you see
4 where I am going with some of my thoughts. In the interest of
5 time and a credit to your thoroughness, I don't have any
6 further questions. Thank you for your application and
7 appearing here today. It is great getting to know you.

8 *MR. MAHER:* Thank you, your Honor, the pleasure is
9 mine.

10 *THE COURT:* Mr. Pulaski, I hope you are not feeling
11 too much pressure with the accolades from Mr. McGlamry.

12 *MR. PULASKI:* I think I will owe him \$20.

13 *THE COURT:* Thank you for your work. Let me let you
14 jump in and tell me what you want to tell me.

15 *MR. PULASKI:* I will get through my thoughts quickly.
16 I feel like Dorothy in the Wizard of Oz and I finally see Oz.

17 It is wonderful to be part of the census team. It is
18 dear to my heart and yours and Professor Dodge's. We have done
19 wonderful things that will set the future of MDL's and that is
20 going to benefit this litigation from start to finish.

21 I got to work with the practice and procedures team
22 and April deliverables team, and it is the hardest working and
23 most dedicated group of attorneys I have met. I admire their
24 work ethic and I am happy for all of my friends and sharing the
25 and gratitude to Special Master Dodge for working days and

1 nights, and the Defense lawyers who have helped making headway
2 on many fronts in this litigation.

3 Humbly, my background, experience, and unique
4 perspective will allow me to -- (inaudible). Mike and I must
5 be drinking from the same water, I, too, am the father of three
6 daughters. I have more female attorneys than male attorneys in
7 the firm, and three women attorneys in leadership in Juul, and
8 they are doing well, and we push and strive for our attorneys
9 to take those roles.

10 To touch on a few items, for the last 20 years my firm
11 has been working on specifically medical MDL litigation. While
12 not in leadership roles, I have been involved in State Court
13 actions, leadership decisions in those cases, and we have been
14 involved in no less than five different MDL's that revolve
15 around cancer injuries.

16 My firm, because we have one of the largest dockets in
17 the country of cases, we get involved in development and have
18 the ability to analyze large and complex dockets which helps
19 not only through the litigation process, but also on the
20 settlement track as well.

21 Until recently, like I said, attorneys in my office
22 played roles in leadership. I have taken on the role of
23 managing and overseeing the strategies on the pharmaceutical
24 dockets. I have been involved on the settlement of the dockets
25 and in certain circumstances, MDL's which I have not played a

1 leadership role in, I worked with counsel to set a path for
2 settlement, including those in the MDL.

3 I am a master of collaboration in 3M, Juul, and here.
4 We are involved in the census and early vetting leads to
5 streamline paths and bellwether cases and trial, and
6 ultimately, you know, we end up in an early settlement process
7 and resolution to this sooner rather than later.

8 As for the work we have done thus far, I am so proud
9 to be part of the 14 of us that are working on various aspects
10 of this litigation.

11 I believe, first and foremost, the registry process
12 and the Court and all parties will have a much better
13 understanding of the case, which I think will result in
14 100,000, 150,000 claims registered. I think you can see those
15 numbers in the initial census. We have done an incredibly
16 large amount of work in a short time, we are going to save
17 thousands of hours of work because of the CPS process. Instead
18 of working our time on 60-page Plaintiff fact sheets and
19 deficiencies that last for years, we have negotiated
20 successfully together agreements for document gathering,
21 sharing costs with Plaintiffs and Defendants.

22 PTO 18 allowed for an avenue for wrongful death cases
23 to easily obtain records for their clients. We've negotiated
24 as a group a large number of agreed-upon orders with multiple
25 Defendants, created Master Complaints, scheduled common

1 benefit, drafted orders that are now sitting there waiting for
2 leadership to be put in place so we can get approval to use
3 some of the orders we drafted.

4 And when it comes to my vision for this ongoing
5 process, should your Honor include me in leadership, as Bobby
6 Gilbert discussed yesterday, set up a new law firm with key
7 people in the right places, well constructed teams that can
8 work in concert with each other, and tasks for litigation.
9 Collaboration is going to be a huge issue, not only with the
10 steering committee, the Defense attorneys, but all Plaintiffs
11 attorneys we will be asking for them. The Sartan PSC has a
12 vast knowledge of this litigation, and with the State coalition
13 of lawyers whose claims will be litigated in multiple venues
14 across the country and coordination, including discovery, when
15 the MDL sets the stage with an eye toward trial in this
16 litigation.

17 Finally, the line of information with the litigants,
18 data with attorneys, the Plaintiffs and Defendants, which will
19 be received through the registry process and allowing for
20 general monthly analytical discussions by both sides at the
21 earliest possible date as the judge decides is necessary,
22 proper insight in the types of cases, types of cancers, number
23 of Defendants, types of Defendants, and leading a clear way to
24 sample pools, bellwether case and trial, and a sufficient
25 resolution of the claim.

1 With that, that is a lot of rambling, and I am open to
2 any questions you may have, and I am very, very glad to be
3 here.

4 *THE COURT:* If you were in the courtroom, Mrs. Stipes
5 would have asked you to slow down. She is the best court
6 reporter in the history of court reporters.

7 State and Federal coordination, give me a one-minute
8 tutorial.

9 *MR. PULASKI:* I think there are going to be a number
10 of cases filed, there are a number filed in Cook County, cases
11 filed in Philadelphia, Rhode Island, and Delaware, very good
12 lawyers working on that team, and I think the MDL should be the
13 forefront of the litigation here and should take the lead.

14 I think in that regard, it is going to be very
15 important to coordinate discovery, document review, depositions
16 with all of the State Court attorneys.

17 In my 30 years of doing this, of mass tort experience,
18 I have a good working relationship with almost every mass tort
19 attorney in the country, and certainly all of those I know
20 filing State Court claims I have reached out to and I had
21 conversations with, and they are open to coordinating with the
22 MDL.

23 *THE COURT:* Do you think the leadership structure
24 calls for a State Federal/Federal State liaison?

25 *MR. PULASKI:* Absolutely. I believe there should be a

1 State/Federal liaison to work with perhaps the Federal/State
2 liaison on the State Court side as well as a couple of lead
3 attorneys working over there.

4 *THE COURT:* Okay. Mr. Pulaski, it is a pleasure
5 meeting you. Hopefully you will get some sleep tonight, and
6 thank you for applying and for all of your work.

7 *MR. PULASKI:* Thank you, Judge, it has been an honor.

8 *THE COURT:* And the final applicant for session three
9 is Paige Bold. How are you?

10 *MS. BOLD:* Doing well. I am happy to be flexible for
11 your Honor.

12 *THE COURT:* Give me a few comments that you would like
13 to share with me about yourself and why you are seeking a
14 leadership position.

15 *MS. BOLD:* I am Paige Bold, I've been working with
16 Watts Guerra for eight years, almost exclusively working in
17 pharmaceutical and medical devices mass torts. I have been
18 working on managing and implementing medical mass torts for all
19 of Watts Guerra's cases which provided a lot of exposure to
20 mass torts and witnessing firsthand how poorly managed MDL's
21 can be and how tailored court orders can affect our clients'
22 lives.

23 During that time period, I did case specific discovery
24 with depositions and expert depositions, as well as doing
25 docket review in other torts. Since becoming a partner at the

1 firm I have tailored my practice to be about cancer patients,
2 the most relevant is the Valsartan case with Rosemarie Bogdan,
3 who you had the pleasure of meeting yesterday.

4 I have been working with the document review committee
5 and participated with Marlene Goldenberg in games using
6 technology to promote consistency with the committee and
7 camaraderie. I have done ad hoc research, too, financial
8 viability for those Defendants as well. And then involvement
9 with both George Williamson and Daniel Nigh in the scoring
10 system of Valsartan litigation, we are balancing exposure
11 rates, pills, as well as co-morbidities that we have seen in
12 those cancers, and that scoring really helps show where the
13 litigation is going to every single law firm. It doesn't
14 matter if it's the PSC or science committee, or a couple of
15 cases, that scoring communicates the strength of the cases and
16 how the litigation needs to move forward.

17 So, knowing all those things and learning about the
18 science, when we heard about the Zantac recall from the FDA,
19 that there was a high amount of NDMA, we knew it was going to
20 be a product that was going to affect a lot of people, and so I
21 actually spoke at the Mass Torts Made Perfect, the public panel
22 discussing Zantac, and spoke specifically about nine criteria,
23 referencing what we know in Valsartan.

24 In this litigation we are going to need a lot of speed
25 and efficiency to meet the goals this Court has put in already.

1 With the use of technology, even though we are not physically
2 able to be together, we personally represent about 80
3 pancreatic cancers, about a fourth of those are deceased. With
4 a time trial not occurring for a year or two, we would be lucky
5 if those clients are alive for that trial, colorectal cancer,
6 these are deadly in the United States.

7 While these are challenges with 30 years of documents
8 to review and multiple Defendants, you have a large slate of
9 people to choose from, and we have a lot of work to do. The
10 clients who are going through the worst personal injuries,
11 mutating, and focusing on the recovery, we need to press
12 forward with the litigation so they can see it to conclusion.

13 With that, I am open to questions.

14 *THE COURT:* Thank you, Ms. Bold.

15 So, what are your thoughts on mentoring and diversity
16 as a partner in the firm? As one who, I suppose, has been
17 supported by others, and perhaps you are reaching out to
18 support others in your role as a partner, tell me your thinking
19 and philosophy in that regard, particularly in the context of
20 MDL's.

21 *MS. BOLD:* I am the current younger partner in the
22 firm, I have a feeling that is going to change. We have had --
23 I had attorneys in our firm that were my paralegals and law
24 clerks, and we see them go through law school and are excellent
25 attorneys, and our firm will be partners as well as colleagues.

1 In general, no matter where you are in your journey as an
2 attorney, we feel that you are reaching out both to people that
3 are younger than you, not only in age, but experience wise.

4 In the Valsartan litigation we are looking at the
5 third party class action area. That is an area I am not
6 ordinarily working in, but any background is important in any
7 piece of litigation, it is important to share whatever
8 knowledge you have, whether it is in an MDL, as a PI attorney
9 explaining I represented cancer patients, how that would affect
10 moving forward, and hearing what other information they have
11 and research they have done and exposure to that would be
12 beneficial on any committee or assignment.

13 *THE COURT:* It has been a pleasure meeting you, thank
14 you for your aptly caution and time and patience waiting for
15 your interview this afternoon.

16 *MS. BOLD:* No worries. Thank you.

17 *THE COURT:* Take care. Okay.

18 *MR. FERRARO:* Good afternoon, Judge.

19 *THE COURT:* Hold on. I am dealing with a lot here,
20 papers, screens.

21 *MR. FERRARO:* I am sorry.

22 *THE COURT:* I want to be on the right page with the
23 right person. You wouldn't want me asking questions for Mr.
24 Murphy. I think everybody figured out my questions, I probably
25 could go away and listen.

1 So, let me just stop this clock and get you started.

2 So, good afternoon, Mr. Ferraro. Actually, in your
3 opening comments, I sort of joked about Mr. Murphy, maybe you
4 could help me understand the relationship between your firm and
5 Mr. Murphy's firm when you give me the comments about your firm
6 and background. I did see the Ferraro Law Firm and Kelly &
7 Ferraro. We will see if Mr. Murphy gives the same answer you
8 do.

9 MR. FERRARO: Once again, I want to thank you, your
10 staff, including your court reporter, she has had a couple of
11 long days, Professor Dodge who has done a lot of work, and
12 thank all of your committee members. I can't stress how
13 fortunate I am to be in this position as a lawyer practicing in
14 this field.

15 I also can't stress how fortunate I am to even be here
16 in front of your Honor applying for a position in leadership.

17 I briefly want to go over three topics. One is my
18 involvement in this Zantac litigation, including the firm, my
19 experience, and talk about our firm a little bit and explain
20 the relationship with Kelly & Ferraro.

21 I have been involved with Zantac litigation since the
22 beginning, I have attended all pre MDL meetings, conferences, I
23 have been working closely with a lot of the attorneys who have
24 been assigned leadership positions, Ms. Moore, Mr. Nigh, and
25 Mr. Wisner, and Plaintiffs' liaison counsel, Frank Maderal.

1 We currently represent hundreds of personal injury
2 clients, and approximately ten percent of our clients are
3 Florida based residents.

4 As far as my experience, I admittedly am one of the
5 younger, if not the youngest applicant, however, I do possess
6 some MDL experience. I am currently involved in the AFFF MDL
7 in front of Judge Gergel in the District of South Carolina. I
8 am not sure how familiar your Honor is with that MDL. I know
9 Professor Dodge does have familiarity with it. It is complex
10 as far as medicine, the type of Plaintiff and science, and the
11 number of Defendants.

12 Through discovery, the number of Defendants in that
13 litigation has grown from a core group of about six, and two
14 days ago I filed a Complaint that had 24 Defendants, it is very
15 complex in that regard. We represent personal injury
16 Plaintiffs, medical monitoring Plaintiffs, we have two medical
17 monitoring clients in that litigation, and we represent
18 municipalities.

19 I have been very involved as far as the science, I had
20 a presentation regarding the ability of chemicals to cause
21 thyroid disease. I have also worked on other MDL's, opioid
22 litigation, we represented Palm Beach County. I worked closely
23 with Dennis Nieman, county attorney, I have been fortunate
24 there.

25 And I tried -- I have courtroom experience as well. I

1 have tried cases in State and Federal Court, and I have also
2 been involved in several appeals.

3 The last thing I want to say about my experience, and
4 I pride myself on this, I have been fortunate in giving
5 somewhat free range within our law firm, which has been in
6 existence for 34 years. I have been able to exercise some
7 sense of entrepreneurship. I have been given the ability to
8 push our firm into other practice areas, and that is why I am
9 here today. We have taken, over the past several years, bigger
10 stakes and bigger positions in MDL's across the country.

11 As far as our firm, your Honor, I will get to the
12 Kelly & Ferraro interplay in a second, but our firm -- I pride
13 myself for being involved in a firm that has paralegals who
14 could be lawyers themselves. We have a strong group of trial
15 attorneys, young, old, female, male, across various
16 backgrounds. This was not highlighted in my application as far
17 as my work on appeals, but we do have a strong appellate
18 practice, we handle all our own appeals ourselves. Former
19 Chief Judge Leslie Rothenberg, I have been working with her and
20 former law clerks, and I tried a case in front of Judge Ungaro
21 with former Judge Rothenberg. Those are some of the cases.

22 That is why myself and my firm would be helpful in
23 this litigation, especially if your Honor presides over a
24 bellwether trial applying Florida law, assuming there is no
25 waiver.

1 I could go before the Supreme Court which shaped
2 science in the courtroom in Florida, and more recently the
3 Aubin decision governed product liability in Florida as
4 recently as 2018, and the Delial (phon) decision which we
5 instated as the standard in Florida.

6 And last, as far as Kelly & Ferraro, your Honor, it is
7 Kelly and Ferraro, if there is a reference to Kelly Law that is
8 short for Kelly and Ferraro. They are two separate entities,
9 they don't share any revenue. The only common denominator is
10 James Ferraro, Sr. is a founding partner with both firms. We
11 do co-work with each other, we refer each other cases, but as
12 far as them being one entity, they are not, they are two
13 separate entities.

14 However, if there was work that needed to be done and
15 we needed more manpower -- which I think each of our firms
16 standing alone would be able to hold their weight financially,
17 and as far as time and manpower -- we would be able to do so,
18 we would be able to rely on one another.

19 Lastly, your Honor, I would like to leave off by
20 saying my firm understands the gravity of this litigation, how
21 substantial it is. They also understand how serious I am about
22 taking this litigation. So, as far as allocation of time, if
23 selected in a leadership position my firm is prepared and ready
24 to reallocate as much of my non-Zantac work, so if selected I
25 could allocate one hundred percent of my time if necessary to

1 this litigation.

2 Once again, I want to thank your Honor and I will
3 answer any questions you have.

4 *THE COURT:* In your other case, the AFFF MDL, are you
5 on the PI and medical monitoring subcommittees?

6 *MR. FERRARO:* That is correct. As far as reallocating
7 my work, there is another colleague of mine also on the PI
8 committee, and if selected, he would be able to carry my
9 workload, and then I would be able to also substitute in
10 another attorney. We have multiple attorneys working on that
11 litigation, I would be able to phase out of that rather
12 quickly.

13 *THE COURT:* And there are no issues with the fact that
14 the same attorney, you working on both of those type of
15 cases -- I heard from others that maybe there should be
16 separate counsel.

17 *MR. FERRARO:* Are you referring to me being on both of
18 those subcommittees? No, because as far as the claims, we are
19 looking at the same kind of experts. The two tracks that you
20 may be referring to, your Honor, there is a different type of
21 Plaintiff in that litigation because there is a big component
22 of water providers. It is an environmental case, Judge Gergel
23 and Defense counsel here are involved in that litigation, Mr.
24 Petrosinelli. Those cases are taking the front seat because
25 the theory is, we want to get the water cleaned up and then

1 they will deal with the PI and medical monitoring cases after.

2 As far as the PI and medical monitoring, they would be
3 one track and the water provider cases would be the other
4 track.

5 *THE COURT:* Would this be your first appointment to
6 leadership?

7 *MR. FERRARO:* That is correct. James Ferraro, Sr., my
8 father, has an appointment there, we have attorneys who are
9 working on subcommittees, and multiple doc reviewers, too, but
10 this would be my first appointment.

11 *THE COURT:* All right, Mr. Ferraro, thank you very
12 much for your application and presentation. Thank you for
13 spending time with me today.

14 *MR. FERRARO:* Thank you, your Honor.

15 *THE COURT:* Take care.

16 Now, Mr. Murphy. Good afternoon, how are you?

17 *MR. MURPHY:* I'm great. How are you?

18 *THE COURT:* Let me turn it over to you. Do you work
19 with Mr. Ferraro?

20 *MR. MURPHY:* I do, his father -- we are partners, I am
21 partners with his father. I don't know if you have any more
22 questions based on what he said. I can address that.

23 *THE COURT:* No. I couldn't quite glean it from the
24 application.

25 *MR. MURPHY:* I'm the partner up here, founded this

1 firm in 1997, and he incorporated his own firm in '85,
2 combining 58 years of law firms. They have separate books, a
3 separate accounting practice, everything is different. We are
4 an Ohio based law firm, they are Florida based. We are
5 separate, except Jim. We do the same kind of work as those
6 guys down there. I attend a Christmas party at times, which is
7 nice in December.

8 *THE COURT:* Absolutely.

9 *MR. MURPHY:* Having said all that, similar to Marlene
10 Goldenberg who spoke yesterday, I wanted to be a lawyer or
11 baseball player. My father, Martin J. Murphy, was the national
12 trial counsel for the Owens Corning Corporation, and he
13 traveled around the country trying cases on behalf of the Owens
14 Corning group, and in the '80's and '90's was major target in
15 asbestos litigation.

16 I began working at my dad's firm when I was 12 years
17 old, I began as a runner, and I kind of graduated all the way
18 to being a -- sitting second chair in a major asbestos trial.
19 I went to Purdue University, and the baseball coaches said it
20 would be better if I thought of something else besides
21 baseball. I went to law school and I worked with my father in
22 the Owens case taking depositions, and some other cases as
23 well.

24 After getting married to a beautiful Irish girl and
25 having the first of four kids, I decided that I was going to

1 branch out from my father's law firm and do something else, and
2 the reason I thought that I was going to leave and was kind of
3 not happy with the defense world was that being a young lawyer,
4 most defense people who run those companies, they have their
5 own ideas on how they want their litigation to run.

6 They just think young lawyers are a waste of time, so
7 to speak, and they tell you what to do. I thought I could be
8 better served helping people take on companies like the big
9 companies, like Owens Corning. I went from defending asbestos
10 cases to prosecuting those cases in 1999 at Kelly Ferraro.

11 I found it more rewarding to help people get through
12 that maize of the litigation process, and I spent my last --
13 since 1999 helping people that were affected by cancer.

14 I became a partner here in 2004, copartner with Jim
15 Ferraro, Sr. in 2012. I run the firm here and he runs the firm
16 in Miami. Our firm up here, as you probably know, is an
17 asbestos law firm who represents almost 45,000 people across
18 every state in the country, and although I have never held an
19 MDL position, this would be my first, I feel like managing the
20 day-to-day operations of an asbestos practice for the last 20
21 years has given me enough experience to be on this committee.

22 Judge Harry Hanna (phon) has consistently recognized
23 this law firm, leaders of asbestos in Ohio, and often allowed
24 our firm to collaborate with the bench to take care of those
25 cases. I felt I would come and talk about that, it gives you

1 an idea of who I am and where I am coming from.

2 Speaking of asbestos cases and Zantac, there is not a
3 lot of difference between the Zantac case and asbestos case,
4 both cases rely on exposure that happened for some many years
5 ago.

6 An asbestos worker would wear a pair of gloves to
7 protect his hands. In that case he was protecting his hands
8 from the heat, unbeknownst to him, the fibers were slowly
9 causing the cancer inside. Compare that to Zantac, a pill to
10 relieve heartburn and acid in the stomach, and years later it
11 finds out that pill is causing cancer. None of the people knew
12 they were using a product that was going to later in life harm
13 them.

14 I am very familiar with latent diseases. We are
15 familiar with cancer, with the medications they use and things
16 of that nature.

17 Let me talk about -- I know I am running out of time
18 here. I wouldn't be here today without my Zantac dads, you
19 can't see them right now, but to make me more nervous, there
20 are seven of them watching me. These guys have been here with
21 me along the way. Brent Wisner, we started in his office back
22 in August, then we went from Beverly Hills, California down to
23 Austin, Texas, from Austin, Texas to Tampa, Miami, and then to
24 New Orleans, good cities, by the way, to visit.

25 Nevertheless, in those places we all were meeting pre

1 MDL to get our thoughts in line for when your Honor had the
2 opportunity to finally talk to us.

3 Speaking of that, some of the people I was talking
4 about here, my top associate, she has been actively involved
5 with Jennifer Moore, Brent Wisner, Dan Nigh, one guy who is
6 with the firm since before he was a lawyer, Joyce -- going back
7 to Joyce, she was at the firm when she was a paralegal, did
8 just about every job, and now she is a lawyer. My partner, he
9 anchors this team as well.

10 What I am getting at, you are not selecting just me,
11 it would be my team of lawyers. I do have a talented group of
12 people to rely on. We have 67 lawyers and support staff here
13 and we have done business for 23 years.

14 One final point about leadership, I believe I am a
15 good leader. I allow people to grow independently. I am proud
16 to say nearly 50 percent of my 67 employees have been here
17 greater than 15 years, not a huge turn over, and we have been
18 recognized here. For the past 20 years, I have served as a
19 part-time magistrate mainly doing criminal housing and
20 misdemeanor crime cases. I have been doing that for 20 years
21 in what they call a Mayors Court in Ohio. I have done that job
22 in two different administrations and served as an arbitrator in
23 an alternative resolution program in the court here as well.

24 Finally, my leadership skills -- I love baseball, I
25 have coached high school baseball and it allowed me to get away

1 from the office and work with tomorrow's future leaders I think
2 I have been able to motivate those kids the same way as the
3 attorneys in the office where I can give them guidance and let
4 them go and grow on their own.

5 We talk about, you know, diversity, the topic for the
6 last two days with respect to your selection. I am proud to
7 say I am on the Baseball Federation. The Baseball Federation
8 is a federation to help pay for baseball for free for inner
9 city use. It is called the RBI Program, it allows these kids
10 to travel baseball, these inner city kids are able to do that.
11 I work with the Baseball Federation in promoting baseball in
12 the inner city of Cleveland.

13 And finally -- I think I said that three times.

14 *THE COURT:* You have.

15 *MR. MURPHY:* That is the problem, I respect -- I am
16 thankful for what I have, I never think I am the smartest
17 person in the room, I respect my elders, and I appreciate your
18 time very much.

19 *THE COURT:* Isn't it great you could have all of your
20 staff and associates. I can't see them. If you were here in
21 West Palm, unless you traveled with them, they wouldn't have
22 the benefit of seeing you in action. That was wonderful, that
23 was generous of you to include them, let them watch you. And I
24 applaud you for the work that you do in the Cleveland baseball
25 program that you are involved in, that is terrific.

1 I have no additional questions, you were quite
2 thorough, thank you very much.

3 MR. MURPHY: Thank you for your time. It is important
4 meeting in person.

5 THE COURT: We have Mr. Dellacio; is that right?

6 MR. DELLACIO: Yes, that is correct.

7 THE COURT: Okay. Hi, how are you?

8 MR. DELLACIO: Doing great. How are you?

9 THE COURT: I am well, thank you. Let's allow you to
10 give your opening statement.

11 I did want to point out, I think you did a really good
12 job with your census, yes, in terms of how you completed them,
13 you and Ms. Miller, so I do appreciate how seriously you took
14 the process and attention to the detail that you have shown.
15 It did not go unnoticed, so I wanted to remark on that.

16 MR. DELLACIO: I want to thank Professor Dodge
17 particularly, and I appreciate that you allowed us to do these
18 interviews. It could have been easier on you if you had taken
19 the applications by the papers, so, thank you for that.

20 My firm is Cory Watson in Birmingham, Alabama. I want
21 to tell you about our firm. We have been doing mass torts and
22 MDL work since the mid '90's, my partners were involved with
23 the original implant litigation.

24 Mesh, that was one of the cases that taught me how to
25 be part of a bigger case, being a small cog in a big machine,

1 how important that is. My firm has served as lead counsel in
2 MDL's, PSC, leadership and discovery, Daubert, down to document
3 review. We are able to do all of that in this case if you
4 appoint me.

5 We have 25 lawyers, and a staff of approximately 80
6 people here. We have been doing pharmaceutical cases since the
7 beginning of the '90's, and I would like to touch base with you
8 about a couple of things. I notice you pointed out Lauren
9 Miller is my partner. I want to point out a couple of things
10 about her. I have watched all of the interviews for the last
11 day and a half, and one thing I noticed, and it is important to
12 me and the Court and Professor Dodge, how important diversity
13 is.

14 Your Honor, we both applied for a PSC position, and I
15 would be the first to tell you, in this situation, I think it
16 is really important that Lauren Miller be appointed. If you
17 choose my firm, I would choose Lauren. Lauren is loyal,
18 driven, and very well prepared. The census data, it was so
19 important that we did that for you and Professor Dodge. I
20 recognize the importance of that and what that would mean
21 toward this MDL litigation.

22 Lauren is not only a female and younger lawyer and
23 doesn't have quite the experience as the other lawyers, but she
24 is also an excellent lawyer. She doesn't just fill the role of
25 diversity, she is a great lawyer. You will have the

1 opportunity to see that if she is appointed.

2 With that, we are resourced appropriately to help, I
3 will turn that over to you.

4 *THE COURT:* That is nice of you to take most of your
5 time to speak about your colleague, Ms. Miller. I commend you
6 for that, very, very nice.

7 *MR. DELLACIO:* Thank you, Judge.

8 *THE COURT:* What is a cochair liaison?

9 *MR. DELLACIO:* I was involved in a case with Blue
10 Cross/Blue Shield, I believe I got the title because I had done
11 so much work, I needed the title to justify what I was doing.
12 In the last few years that became my title and my role,
13 actually.

14 *THE COURT:* Okay. And so, if Ms. Miller is appointed,
15 what would you do to mentor and assist her?

16 *MR. DELLACIO:* You don't lose me in the process. If
17 Lauren is appointed, I will help her and support her, our firm
18 will accommodate her schedule. Not only will this be her
19 primary focus, and maybe her only focus, we will allow her to
20 do all she can do for this Court.

21 *THE COURT:* Thank you very much, that is very nice. I
22 look forward to hearing from Ms. Miller. I hope she doesn't
23 feel too much pressure.

24 *MR. DELLACIO:* Thank you, your Honor.

25 *THE COURT:* Okay.

1 Ms. Miller, hi, how are you?

2 *MS. MILLER:* Hi, good afternoon.

3 *THE COURT:* It is nice to have a colleague like that.

4 *MS. MILLER:* Well, we are in the same room.

5 *THE COURT:* Well, I wouldn't have known. If you are
6 willing to confide, that is nice. There are others applying
7 who are in the same firm, that must be fun or incredibly nerve
8 racking.

9 *MS. MILLER:* A little of both.

10 *THE COURT:* As I mentioned with Mr. Dellacio, I do
11 want to commend you, the census information was done very well
12 and in detail. Thank you for that.

13 *MS. MILLER:* Absolutely, we were happy to do it.

14 *THE COURT:* What do you want me to know about you and
15 how can you aid in this litigation?

16 *MS. MILLER:* This litigation is so important to me and
17 our firm, if given the opportunity to serve on the Plaintiffs
18 steering committee, the attorneys have served in steering
19 committee positions for decades, while I have not held a
20 leadership appointment, I've worked along side my partners in
21 their roles and I have the experience necessary to do any of
22 the work that is required in this litigation.

23 Most recently, I had an integral role with Cory in the
24 pharmaceutical drug in a cancer jury, in my position, I served
25 as counsel's right hand and I was involved in every facet of

1 that litigation. I did substantive and extensive common
2 benefit work, drafting most of the pretrial orders, discovery,
3 and conferring with Defense counsel, most of which shall
4 involved in this litigation. I was on a small team of
5 attorneys responsible for expert reports, depositions and
6 Daubert briefing, and I was primarily responsible for preparing
7 one of our experts who was a physician scientist forgiving his
8 testimony at the Daubert hearing.

9 In addition to my years of MDL work I have done filing
10 the unusual position to crafting settlement grids, and single
11 event personal injury cases in my firm, I am the primary
12 attorney that works with sexual assault survivors, that is
13 important to me and impacted me in a very real way and
14 impressed on the gravity of what all of my clients have
15 suffered through.

16 In this litigation thousands of individuals have been
17 diagnosed with cancer after taking Zantac, and many of them
18 have died. I tend to be an aggressive and passionate advocate
19 for my clients, and I would do the same thing in this
20 litigation. In doing that, often times we run into
21 disagreements with opposing counsel, but I endeavor to approach
22 those diligently, and I will come to the Court as a last
23 resort.

24 I want to thank your Honor for having the leadership
25 structure, considering lawyers like me that have not held a

1 steering committee appointment. I am a hard worker, have a
2 strong work ethic, and I will always do what it takes to get
3 the work done.

4 Last year I was in a bad accident, I ended up in the
5 hospital for a week, and it coincided a brief deadline. I
6 worked on a Daubert brief from the hospital bed, I went through
7 airports in a wheelchair to travel around the country to
8 consider preparing for our Daubert hearing. It was ridiculous,
9 my firm was understanding of my situation. I will apply that
10 same intense dedication and commitment being on the steering
11 committee, it is the only leadership appointment I am seeking.

12 I bring the experience of the seasoned lawyers at my
13 firm who have held leadership appointments and fully support me
14 in this role. I am not just looking for a seat at the table, I
15 am eager to do the work and I have the strong desire to serve
16 my clients collectively and the Court.

17 *THE COURT:* Terrific, thank you so much.

18 So, you said in your application, based on my notes,
19 that you would bring a fresh perspective to litigation, so,
20 give me an example of a fresh perspective.

21 *MS. MILLER:* I was thinking about this because you
22 were asking these questions yesterday. A freshman joining the
23 team, those people have energy, they are the ones in the gym
24 training at 3:00 a.m., and they are the ones making the shot at
25 the same spot over and over again for an hour to make up for

1 that lack of experience and make sure they are doing the job
2 right, and that is what I would bring serving on the
3 Plaintiffs' Steering Committee.

4 I am enthusiastic and I endeavor to work very hard and
5 do a good job. I think it is important to have a diverse group
6 of people to collectively bring a full spectrum of ideas. When
7 you have kind of everybody that is middle aged or younger --
8 older, you are really kind of boxing yourself in to one idea,
9 and just a collaborative approach is the best way to go.

10 *THE COURT:* Okay. I was going to ask what does it
11 mean to have the full support of your firm, but I get it, with
12 your comments and Mr. Dellacio's, with the two of you, you
13 covered both of you extremely well. And again, I want to
14 acknowledge just how nice it is that you have the support and
15 you are very lucky to be in that position.

16 Thank you for your application, it's a pleasure to
17 meet you.

18 *MS. MILLER:* Thank you, your Honor.

19 Mr. Schanker, are you going to be speaking on behalf
20 of Mr. Bachus as well?

21 *MR. SCHANKER:* Yes, your Honor.

22 *THE COURT:* You have a double job to do. Tell me how
23 you want to navigate it, and I will turn it over to you.

24 *MR. SCHANKER:* With your permission, if I could speak
25 about Kyle Bachus, and Kyle is unable to be here, as we relayed

1 through our group, his mother was tragically struck by a truck
2 just recently.

3 *THE COURT:* I'm very sorry to hear that, please extend
4 my condolences. When I received the message yesterday, I was
5 heartbroken to hear that.

6 *MR. SCHANKER:* Thank you. Kyle is from Florida, he is
7 a University of Florida graduate, licensed in the State of
8 Florida. He practices out of Denver, Colorado right now, his
9 practice is a national one, and let me briefly share with you
10 what I believe you would be getting with Mr. Bachus if you
11 decided to appoint him to a leadership position in this case.

12 As you know, your Honor, the general liability side
13 is -- of this type of case is in many respects the most
14 important aspect of an MDL, as it has to be for all in this
15 tens of thousands or hundred plus thousands of cases. Those
16 attorneys that have worked side-by-side with Mr. Bachus in
17 MDL's will tell you that is his specialty. He has a true eye
18 for culling out and telling the true liability story, this
19 incredible administrative lawyer aspect of an MDL, and the
20 litigation aspect and putting the case together for trial.

21 I am not talking about for the discovery stage or for
22 the billing stage as, unfortunately, sometimes happens in this
23 setting, discovery, trial depositions, finding the true story
24 of corporate conduct and how to tell that.

25 The best example of Mr. Bachus' skill set in action

1 is, as I said, the proof is in the pudding. By way of example,
2 in the Taxotere litigation, Mr. Bachus is on the PEC, and there
3 are probably eight different lawyers, very good lawyers, who
4 took over 250 hours worth of corporate liability depositions in
5 that case as part of the MDL general discovery process.

6 By the time that was winnowed down to a trial
7 presentation, 90 percent of what was played in the trial
8 presentation with those depositions, not discovery, but the
9 trial portion of those depositions that were done by Mr.
10 Bachus, and his colleagues recognized that he is probably as
11 good as anybody in the country at that incredibly important
12 job.

13 Personally, I am seeing that right now as I am putting
14 together the biometrics for trial. I am in the process of
15 going through the corporate liability study, the depositions,
16 and the same thing I see is happening, is Mr. Bachus'
17 depositions, the way he can pull that story out. Those are the
18 ones that will form the cornerstone of a trial.

19 One thing I am sharing, and that is his unique skill
20 and those in the field understand this important part that
21 sometimes gets overlooked. It is one thing to take a
22 deposition, it is another thing to get something you can
23 utilize in a trial presentation. That puts him above the rank
24 and file as a mass tort lawyer.

25 As you can tell from the papers, Kyle Bachus has been

1 appointed to multiple MDL's in leadership positions. Mr.
2 Bachus tried dozens of personal injury cases to verdict all
3 around the country, and I can tell you with confidence you will
4 not regret in any way appointing Mr. Bachus to this PSC.

5 *THE COURT:* Thank you for speaking on Mr. Bachus'
6 behalf, I very much appreciate that.

7 *MR. SCHANKER:* Any questions that you have from his
8 papers that I may be able to answer for you?

9 *THE COURT:* His role on the PEC in Taxotere, is that
10 over?

11 *MR. SCHANKER:* That is still ongoing.

12 *THE COURT:* What kind of time commitment is that?

13 *MR. SCHANKER:* Realistically, that is something that
14 before he even applied for this, he wanted to make sure he felt
15 he truly could be committed to this action, and he absolutely
16 would be committed, would have the time to do it and, you know,
17 that shouldn't be a concern of your Honor.

18 *THE COURT:* Okay. All right, thank you so much. Now
19 do you want to speak on your behalf?

20 *MR. SCHANKER:* I would like to.

21 *THE COURT:* And also maybe address with both of you
22 applying from the same firm, how do you want the Court to
23 consider that?

24 *MR. SCHANKER:* That is a great question.

25 I think, your Honor, as you are trying to piece

1 together puzzles to make a complete picture, I would defer to
2 you and say, because I believe my skill set is unique from Mr.
3 Bachus', it may be a situation where you decide neither of us
4 is appropriate, maybe you decide one of our skill sets fits in
5 better than another. Is that a fair response?

6 *THE COURT:* That is fair, yep. Tell me about your
7 skill set.

8 *MR. SCHANKER:* I will do just that. How can I fit
9 into this Zantac trial team?

10 Well, obviously, as you know, there are different
11 roles in the whole MDL process, liaison counsel has done a ton
12 of work in this case. In my experience on the Taxotere case I
13 saw Dawn Burus (phon) liaison counsel, the amazing work she did
14 keeping track. That is not me. My role, my skill set involves
15 digging in the trenches of the case, building the bellwether
16 case, and I think more importantly, taking that massive MDL
17 discovery product and turning that into a trial product, a
18 story that can be digestible for a jury.

19 Because ultimately, building these cases the right
20 way -- everybody wants this thing resolved, and one of the
21 important levers, as the cases are going to trial, is building
22 the case the right way so Defense counsel sees we found where
23 the bodies are buried, so to speak, and can tell that story in
24 a cogent digestible manner for the jury. Unfortunately, that
25 is overlooked in the MDL process.

1 Cutting that across the board, that is where I can
2 best serve, and by way of example, in the Taxotere litigation
3 which I referenced earlier, I ended it fortunately, and I was
4 in a position as lead trial counsel in that case, a standup
5 lawyer in that case and went to trial in September, and have
6 the same position in the upcoming trial.

7 In the Zantac litigation, I believe I can bring many
8 of those same skills to bear. That doesn't mean I have to be
9 the lead counsel, standup lawyer, but I understand what goes
10 into that, and those experiences were vital in bringing
11 everything together that is involved in the complex MDL motions
12 practice to get to that point.

13 Daubert motions, both sides, preparing experts for
14 Daubert and defending them and attacking and excluding experts,
15 arguing the motions successfully on both sides, the preparation
16 of cases, I successfully argued those multiple times.

17 I have a true understanding of the science from the
18 genesis, causation, and specific causation requirements, and
19 putting all of that together to get through those hurdles that
20 you need to get through in order to make it to trial.

21 I think I have an excellent grasp of the complex
22 nuances in motion practice that comes to bear in every MDL
23 case. I have a lot of experience in these MDL's, but I never
24 applied for a PSC. I have worked on MDL's, and as you know,
25 you asked folks, what is an appropriate size team you are

1 putting together? Maybe 16 to 18 is indeed appropriate. It
2 seems like ends up maybe five, six, seven of the folks are
3 those that are carrying the water and sometimes they are people
4 that are not the initial appointments, and I've ended up in
5 that position before, gladly done it, roll up my sleeves and do
6 the work.

7 I play well in the sandbox with others, understand
8 when it is time to lead and when it is time to follow and I can
9 accept both of those roles. I've tried over 60 cases to
10 verdict, car crashes, premises liability, all from the
11 Plaintiffs' perspective.

12 I would be willing to be dedicated, absolutely
13 dedicated, and give my heart and soul in this case if you
14 decide an appointment is proper and appropriate, your Honor.

15 *THE COURT:* Thank you. I thank you for talking on
16 behalf of Mr. Bachus and you telling me about your experiences,
17 including your accomplished trial experiences, particularly and
18 most recently in Taxotere.

19 Do you know when your next trial is? You said
20 upcoming. When is the next trial set?

21 *MR. SCHANKER:* The next trial is currently set for
22 October. As you know, your Honor, that is somewhat up in the
23 air.

24 *THE COURT:* Okay, thank you so much, a pleasure to
25 meet you.

1 MR. SCHANKER: Thank you for your time.

2 THE COURT: Okay. Mr. Elliott.

3 MR. ELLIOTT: Good afternoon, your Honor.

4 THE COURT: Your video is blocking me. There we go.
5 Okay.

6 Mr. Elliott, are you in the same practice with Mr.
7 Schanker and Mr. Bachus?

8 MR. ELLIOTT: Yes, I have been with the Bachus &
9 Schanker firm since 2009. I am the managing attorney of the
10 firm's mass tort department, I have been in that role for the
11 last five years. I have been responsible for overseeing
12 thousands of mass tort cases, filing various MDL's across the
13 country. I am in the trenches, boots on the ground, moving the
14 cases through the complex dockets.

15 As Mr. Schanker noted, we found the Taxotere
16 litigation, I was responsible for filing lawsuits across the
17 country, instrumental in getting the case consolidated in front
18 of the JPML. I have been involved in signing up cases at the
19 beginning all the way to settlement distributions. I navigated
20 all of the orders, Plaintiff fact sheets, product ID,
21 overseeing PSI protocols for thousands of Plaintiffs, and on
22 top of that, your Honor, I am a trial lawyer as well.

23 I started out as a prosecutor in Florida at the State
24 level, prosecuting DUIs and felonies before I left, and in
25 2009, I moved out to Denver, and I was lucky enough to join the

1 firm of Bachus & Schanker. Kyle both taught me how to build
2 civil litigations the right way from the start of the case, and
3 actually putting together an excellent trial presentation. I
4 learned from really great attorneys along the way. I have
5 tried dozens of cases on both the criminal side and the civil
6 side and, you know, regardless if I am selected or not, I do
7 want to commend the initial census team for setting up P. to
8 15.

9 I have been involved in various MDL's where the
10 kickoff of the cases are not great, we have 50 to 60 page fact
11 sheet orders and as managing attorney of all of the firm's
12 individual cases, that is quite difficult in managing cases
13 across the country.

14 I appreciate the ability to get these folks on a
15 platform for (inaudible), I appreciate the medical records
16 options provided by the order.

17 If you have any questions for me, I would be happy to
18 take them.

19 *THE COURT:* I appreciate your comments, particularly
20 about all of the experience you have had.

21 Anything else you think could be done to further what
22 you think is a good start, for lack of a better word, efficient
23 beginning, any words that you would like to offer?

24 *MR. ELLIOTT:* What I have seen that was beneficial in
25 the Taxotere litigation is PT 71 A, and the process for ESI

1 protocols laid out by the Court. If that is what your Honor
2 decides to do, I recommend you do that early on in the case.
3 It is quite intensive for the clients to go through providing
4 affidavits to the Court that may be fit for bellwether
5 presentation, and not bellwether. It is onerous for the
6 clients to have to deal with PSI, tailoring it to bellwether.
7 I appreciate that.

8 I think, your Honor, in this case you are going to
9 have a lot of cases that are generics. This drug has been on
10 the market for a long time, there are NDC codes that need to be
11 uncovered, and getting a process in place to provide the NDC
12 codes so we do not have multiple Defendants on a filing. When
13 it comes to settlement time, we really need to understand who
14 is the actual Defendant that made this product.

15 Establishing a product ID process early on -- and I
16 will tell you in my experience in the Taxotere litigation, what
17 she set up is very good where we first, as Plaintiffs, have to
18 provide, we make the effort, and if we cannot uncover the NDC
19 codes and get cooperation from the facility, Defense counsel
20 makes a request. If they don't get it, we send a Rule 45
21 subpoena, and I would say with the Rule 45 subpoena, once that
22 subpoena is sent out, 80 percent of the facilities will
23 cooperate and send the NDC code proof, and you know who the
24 manufacturer was. Getting that is extremely helpful in the
25 case.

1 If the Rule 45 subpoena does not work, the Court
2 allows for you to take the deposition for the pharmacist, and
3 we have done that on various occasions, most of the time it is
4 effective. You will find cases where we can't identify a
5 product's ID, but establishing the protocols early on in the
6 case when you have brand and generic prescription drugs is very
7 important. Those are my thoughts.

8 *THE COURT:* Thank you, Mr. Elliott, I appreciate it.
9 Thank you for sharing your wisdom and for your time here today,
10 I appreciate it. It is a pleasure meeting you.

11 *MR. ELLIOTT:* You, too, Judge, thank you.

12 *THE COURT:* Okay, the next applicant is Mr.
13 Parafinczuk.

14 *MR. PARAFINCZUK:* Yes, your Honor.

15 *THE COURT:* I will give you a moment to appear.

16 *MR. PARAFINCZUK:* That was a great pronunciation.
17 Frank reached out to me with your question about pronouncing my
18 name.

19 *THE COURT:* I should have said Parafinczuk. Say your
20 last name.

21 *MR. PARAFINCZUK:* Parafinczuk.

22 *THE COURT:* I didn't do it right, I was trying.

23 Good afternoon, how are you?

24 *MR. PARAFINCZUK:* I am good, your Honor, good.

25 *THE COURT:* Let me let you make your opening remarks.

1 MR. PARAFINCZUK: I am happy to be here and happy that
2 you granted everyone an interview. It is very important in
3 this MDL proceeding that everyone can be heard and that is not
4 always the case in MDL's, unfortunately. Thank you for doing
5 that.

6 I echo the sentiments about the census my colleagues
7 have made. It is important for each firm to go through the
8 cases, and I know the ones my firm submitted today are good,
9 there are a couple of deficiencies that we'll cure. We went
10 through as best we could. It is important to do it from the
11 start.

12 We are involved in the Essure litigation, and after
13 four years, we don't have an accurate handle on the cases
14 involved in litigation. It helps Defense and Plaintiffs' side
15 to get a handle on this from the start to help toward
16 resolution.

17 As far as my professional background, I defer to my
18 application.

19 The reason I applied, I have been involved in this
20 case from the start, I filed two cases in the Southern District
21 of Florida, a Palm Beach resident and a Miami resident, and I
22 am ready to get to work on the case.

23 My experience with discovery in the Essure case can
24 translate very well to this case, it is fresh in my mind, I am
25 dealing with these issues constantly. My workload in that case

1 is virtually done, all of my efforts are focused on resolution
2 at this time. I don't have a big time problem in this case.

3 I would like to negotiate ESI orders, meet with the
4 Defendants' counsel at least every two weeks and begin to have
5 a social media protocol as well. Those are the issues that go
6 to the discovery issue in a mass tort.

7 That is what I am interested in handling. That,
8 combined with expert reports, is what will lead the case to be
9 resolved. At that point the parties can sit down and make a
10 decision, hey, this is what we are facing, we want to continue
11 down this path.

12 Again, that plays into some questions your Honor had
13 about what do we feel is the best way to handle an MDL, what
14 are the most important things. To me, we are already a step in
15 the right direction. The most important thing is data, both
16 sides have to have data. We can't have a meaningful
17 conversation about resolving the case or, frankly, anything if
18 the parties can't tell each other what they have. What does
19 that mean? That means we have to tell the other side our
20 clients, what are their injuries, and who are our experts and
21 what are they capable of testifying to.

22 At that point, we can sit down and have a
23 conversation, but along the way, what I think is important and
24 helpful to us is having special masters guide us in those
25 processes. Special Master Sunshin (phon) in the Eastern

1 District of Pennsylvania handled all of the discovery very well
2 and Judge Welch appointed a special master who guided us.

3 If I had to change something about our process in that
4 case, it would be that we start with them from the start, from
5 the very beginning of the case, and I know in other cases
6 there's a settlement master, and there are orders where the
7 parties have been ordered to simply meet with each other and
8 talk. If they don't have anything to talk about, they move on
9 to the next thing.

10 The issues in this case are so complicated, if you
11 don't have the discussions early on, you're pushing six months,
12 12 months, 18 months on top of issues that could have been
13 dealt with from the start.

14 Finally, I commend all of my colleagues to stress how
15 important it is to have diversity in an MDL. It is important
16 because we need to learn from each other's backgrounds, and it
17 is important because all of our clients have different
18 backgrounds. We need to understand what each and every one
19 needs from the cases. You can't get that from the same type of
20 person, it has to be a collaborative approach. That is what I
21 would like to do in the case.

22 *THE COURT:* All right. Thank you so much. Do you
23 have any thoughts on how to ensure that settlements don't just
24 favor leadership?

25 *MR. PARAFINCZUK:* Yes, I have a lot of thoughts about

1 that.

2 *THE COURT:* One minute.

3 *MR. PARAFINCZUK:* The biggest issue is transparency,
4 everyone that has a case in the MDL needs to be informed of
5 what is going on.

6 Sometimes discussions occur that are confidential
7 between parties, but in my view, if you are in an MDL, you have
8 a right to information, that is definite, and there are a lot
9 more steps after that.

10 *THE COURT:* That is perfect. I think I will hear from
11 one of your colleagues now. You are not necessarily in the
12 same location. Are you in the same location? You are kind of.
13 We could have done it that way. You weren't supposed to turn
14 your video on until the other one turned it off. We'll make an
15 exception.

16 For the record, Mr. Susen.

17 *MR. SUSEN:* Yes, Judge.

18 *THE COURT:* How are you?

19 *MR. SUSEN:* I'm great. How are you?

20 *THE COURT:* Let me turn it over to you.

21 *MR. SUSEN:* Thank you, your Honor. May it please the
22 Court, with my opening statement what I would love to do is
23 focus on two things; one, diversity, and two, enthusiasm. I
24 want to focus on those two things because I think those are the
25 two primary benefits I can bring to not only the clients in

1 this litigation, which this case is all about, the clients, I
2 also want to bring those factors to the Court as well on the
3 personal injury side of this litigation.

4 I will tell you up front, like most of my colleagues,
5 I have never been on a PSC in an MDL. Some of my colleagues --
6 I am on the younger side being admitted to the Florida Bar in
7 2009. The reason I mention these points, I believe they will
8 be able to bring independent ideas and enthusiasm into this
9 litigation.

10 Since I began practicing law in 2009 here in Florida,
11 I always wanted to be in the mass torts base. I think because
12 litigation of this type, nature and magnitude, they have a
13 higher cause and higher purpose, but from personal experience,
14 I can tell you it is extremely hard to get your foot in the
15 door. Like my partner Justin said, I want to thank you for
16 allowing everyone, not just us, everyone to be heard and
17 interviewed. I think that is extremely important.

18 Fairly recently -- Justin talked about the Essure
19 case. There is a hard hurdle to get your foot in the door for
20 this type of field. We took a case that no one else wanted
21 four or five years ago, mainly because of preemption, and that
22 is the Essure case against Bayer. It took us years to get over
23 the hurdles and get a viable Complaint. We started that
24 litigation from scratch.

25 Once we were able to get over the unusual hurdles, a

1 lot of other firms came into the mix and joined on and from
2 there, they formed a state MDL in California and consolidated
3 in Pennsylvania.

4 Although it is not a typical MDL, the Court in the
5 Eastern District of Pennsylvania did appoint myself as a
6 co-lead counsel in the litigation run similar to an MDL. And
7 that experience, Judge, the Essure story and experience of how
8 we took that on is one example, I think, of how diversity and
9 enthusiasm has helped hundreds of clients who may not have been
10 heard.

11 With that said, Judge, I would love the opportunity to
12 work and serve the clients.

13 *THE COURT:* Okay, terrific. So, what parallel court
14 actions are there in Essure, and what role do you have, if any,
15 in those?

16 *MR. SUSEN:* There is a JCCP in California, the State,
17 kind of like an MDL forum, and there is the consolidated
18 litigation in Federal Court in Pennsylvania. I do not have any
19 role in the California State program, I only have a role in the
20 Eastern District of Pennsylvania.

21 One question you mentioned about a State/Federal
22 liaison, I think that is a phenomenal idea. That is something
23 we did not have in Essure, and we ran into significant hurdles
24 when trying to conduct discovery, and I think that is a
25 terrific idea.

1 *THE COURT:* All right. Terrific. I am glad you are
2 as enthusiastic as you are, and if we talk again a year from
3 now, two years from now, six months from now, I hope that you
4 throughout maintain that same enthusiasm. It is very
5 refreshing.

6 *MR. SUSEN:* Thank you, Judge.

7 *THE COURT:* Okay, Mr. Worley.

8 *MR. WORLEY:* Yes, your Honor.

9 *THE COURT:* How are you? There are two from your
10 firm.

11 *MR. WORLEY:* There are five applicants. We are not
12 asking that all five of us to be appointed, just one of us.

13 *THE COURT:* It is you, Mr. Barfield, Mr. Assaad as
14 well, Mr. Fraser as well.

15 *MR. WORLEY:* Yes.

16 *THE COURT:* The remaining, we could almost put you all
17 on a gallery view, but each of you -- do you have a team
18 approach you are wanting to make?

19 *MR. WORLEY:* I will let each one of them speak as far
20 as the qualifications so the Court can make a decision. We are
21 only asking for one person to get appointed. There are other
22 team members, we have my she will he will Inc. ton, she is a
23 nurse and lawyer, and she will be on the team. We have lot of
24 lawyers here and a lot of experience.

25 I have never been appointed before, we have other team

1 members that are currently serving. Gabe is on 3M, and hip
2 implant, and Fraser is working in mesh in discovery, and I
3 think we have more cases filed than anyone else, and bellwether
4 cases. I haven't applied to a PSC, I have taken cases that
5 other people didn't take. One is the Boston Scientific
6 Greenfield filters, we filed that in Boston, and the other one
7 is Nexium, an MDL in California. I was one of the lawyers in
8 that case and the other lawyers were correct in not taking that
9 case because we lost, but that was one I was involved in as
10 well.

11 So, we have a team here that is ready to work, and we
12 will work regardless of whether you appoint us or not, we will
13 work with the people you appoint because we eventually have a
14 lot of cases in your court, and we want to make sure the work
15 is done, so we'll help in any way we can, as we did in other
16 MDL's.

17 What my firm is good at is data management. We have
18 around 35,000 cases or more in inventory referred to us by
19 other lawyers that are mass tort cases. Why that is when you
20 have never heard of Don Worley and my firm is because of data
21 management. We send reports and say here are the cases we
22 have, I think we could be helpful with data management. The
23 biggest problem is, you probably already figured this out in
24 doing the census, one of the problems these take so long to get
25 resolved is because the Defendant doesn't know the universe,

1 all they know is what cases are filed.

2 There was a company called Versus trying to pitch the
3 Courts and Plaintiffs and Defendants to use them to list all
4 their cases, filed or unfiled, so everyone would know the
5 universe, it didn't take off. That is a great idea if everyone
6 knows the filed cases to know the universe. That is one thing
7 our firm has been really efficient at, is data management of
8 cases.

9 *THE COURT:* Okay.

10 *MR. WORLEY:* So we do, as we acknowledge, have many
11 partners applying.

12 *THE COURT:* What is an example of how you mentored
13 within your firm with respect to professionalism?

14 *MR. WORLEY:* Well, I think everybody who has been
15 chosen to come to the firm, not because it is my firm, I don't
16 go by because of the hamburger chain, but we pick everybody for
17 their professionalism. Everyone here has good professionalism
18 with the Defense Bar and Plaintiffs Bar, each person was hand
19 picked because of the reputation they have.

20 *THE COURT:* What about within the firm promoting women
21 in leadership positions?

22 *MR. WORLEY:* We have one woman applying, and we have a
23 nurse and lawyer here, she actually attended all the science
24 meetings on Zantac to make a decision whether we should get
25 involved in this litigation. We had several cases coming in,

1 she is our gatekeeper on cases coming in. Women have
2 leadership roles here as well.

3 *THE COURT:* Okay, all right. I appreciate your
4 application and your interview and the fact that you have so
5 many applicants from your firm, that speaks to the interest and
6 hopefully the enthusiasm about working on this case.

7 Why don't I work my way through, next with Mr.
8 Barfield. Thank you so much, pleasure to meet you.

9 *MR. WORLEY:* Thank you, your Honor.

10 *THE COURT:* Hello, Mr. Barfield. All right.

11 *MR. BARFIELD:* Hi, Judge.

12 *THE COURT:* How are you?

13 *MR. BARFIELD:* Doing great.

14 *THE COURT:* Let me let you have an opportunity to tell
15 me something about yourself and about the firm and why you are
16 seeking a leadership position.

17 *MR. BARFIELD:* First and foremost, I want to echo the
18 compliments given to you and Special Master Dodge that this
19 process in the very beginning is going to help this litigation.
20 Just working briefly with Mr. McGlamry and Mr. Pulaski and
21 those two committees that they are on has really done a lot for
22 this litigation, and the people who are involved are top notch,
23 and I am excited to be a part of this process.

24 I have been practicing law since 2001, I have been
25 involved in several mass torts. I have never been appointed to

1 a PSC, but I have been on a committee. Whether it is dealing
2 with experts or discovery matters, I was a part of those
3 committees. I'm certainly looking forward to whatever role I
4 can bring to the Zantac MDL, taking part and being part of the
5 process.

6 *THE COURT:* Okay, wonderful, I am grateful that you
7 applied.

8 Tell me a little bit about what you think the
9 bellwether selection process would look like in this litigation
10 if you have given that some thought.

11 *MR. BARFIELD:* I have given that some thought. That
12 goes back to the census and registry which, as of today, has
13 been a great process. The registry and the census process will
14 bring about the need for understanding what is a true -- what
15 is the representative case, and I think both committees have
16 done a great job in terms of using that census and the registry
17 that would allow us as lawyers to bring all of our cases.

18 Like Don was saying, there was a group out there that
19 did something similar to what the census and registry group is
20 doing right now so we can see what are the cases that are part
21 of this population now and going forward. That will bring
22 about a great bellwether selection process.

23 *THE COURT:* I noted in your application you said you
24 were familiar with the need for effective communication between
25 counsel and the Court.

1 How would you ensure that? What tools have you
2 utilized to further communication and what advice would you
3 have for others?

4 *MR. BARFIELD:* I think the members of the PSC are very
5 important in that process to communicate what the other firms
6 here are dealing with and communicating that with the PSC, and
7 the PSC is able to communicate that to the Court.

8 It is a strong collaboration between the MDL and State
9 Courts, we saw that in the Xarelto litigation, Ms. Dunbar
10 (phon) has done a wonderful job coordinating between the MDL
11 and the State Court proceedings. That is another area that
12 helps with leading the MDL, making the MDL the leading force in
13 driving this litigation.

14 *THE COURT:* Okay, thank you so much, Mr. Barfield, for
15 sharing your thoughts, I appreciate them, and for taking the
16 time to apply and appear for an interview toward the tail end
17 of session four, day two. That is not easy, I appreciate your
18 sustaining power.

19 *MR. BARFIELD:* Certainly.

20 *THE COURT:* And Mr. Assaad.

21 *MR. ASSAAD:* Good afternoon.

22 *THE COURT:* How are you?

23 *MR. ASSAAD:* I am doing well. How are you?

24 *THE COURT:* Thank you for your patience as well. Let
25 me allow you to say some things about your background, noting

1 that you are an engineer by background in training, and maybe
2 you can tell me about that and anything else you want to tell
3 me about. And I will preview a couple of the questions I had,
4 maybe you can wrap them into your comments.

5 How do you think your engineering background would be
6 helpful here versus a case like 3M, and the time commitment
7 here that is available to you given the 3M work? After that,
8 you can say what you want, within reason.

9 MR. ASSAAD: First of all, thank you for taking care
10 of this in watching the presentations and looking at the email
11 and other things. You have been here for two long days and I
12 appreciate your time and ability to stay focused throughout
13 this application process.

14 Before I go into my training and experience, I would
15 like to say I do not envy you, the applicant group here is
16 phenomenal. From what I know of people and the people
17 applying, some of the best attorneys in the country are
18 applying for this, and I think your job is probably harder than
19 the admissions committee to an Ivy League law school. I wish
20 you the best and good luck in choosing the PSC. I mean that
21 from the bottom of my heart.

22 First of all, hearing the attorneys speak and what
23 they have said so far, I was nervous to speak today. So many
24 applicants have done so much in this case, there are a lot of
25 good people. It is hard to stand here and say I should be

1 picked and nobody else should be picked. Having said that, I
2 leave it up to the Court's wisdom to choose who is best for
3 this litigation.

4 I went to the University of Florida, I am a Gator
5 through and through, and I use my engineering in litigation.
6 In the 3M litigation, I could understand the science. I have
7 done five years of engineering school, I was premed, I decided
8 to stick with engineering and this helped me in products
9 liability, medical malpractice and litigation, and depositions.

10 I was very heavily involved in litigation in
11 Minnesota, going in front of scientists and engineers and
12 experts, knowing the engineering, understanding the engineering
13 and being able to speak somewhat on their level. The corporate
14 level is much higher than mine, but I was able to understand.
15 It was an asset because most of the depositions were used in
16 the Daubert motions to exclude some of the experts or to
17 actually cause the Defendants not to call any experts during
18 trial.

19 That sets me apart from a lot of the applicants in the
20 applicant pool for the PSC.

21 A little bit about me, I do have ties in Florida, my
22 family lives in Florida, I went to law school there. After law
23 school I went to D.C. and after I left a big firm, working
24 there for two years, I went to a small medical practice
25 boutique, Barry Naus (phon), who was the lawyer on the Daubert

1 case, so working under him, he was a mentor of mine and I heard
2 a lot about Daubert and I used that to conduct my
3 investigations and information in the Daubert challenges
4 against experts.

5 You have my application and my experience. What I
6 really want to focus on is inclusiveness in the PSC.

7 Just by chance, luckily, I was able to get involved in
8 the litigation because the partner I was working for is the one
9 who started the litigation. Even though I did not get a PSC
10 appointment, my partner was on the executive committee. Based
11 on my experience, I was able to get subsequent work in that
12 litigation, being a part of the PSC. It is hard for younger
13 attorneys to get involved in litigation because it is a
14 difficult process, and when you get into the PSC, to get work
15 that is difficult.

16 I am big on mentoring. When I was a young attorney
17 and I did depositions -- and mentoring is more than being
18 thrown into the fire. I remember my partner, Mr. Naus, would
19 take me and go line by line mentoring me, what I did wrong,
20 this question I asked might be a good question, it is useless
21 at trial because it wasn't asked right, or it was too broad,
22 and you learn a lot through mentoring if someone takes the time
23 for mentoring.

24 One of my pet peeves in the MDL process, the younger
25 attorneys come on, but nobody takes the time to mentor them,

1 and one of the greatest aspects of the MDL is the ability to
2 learn as an attorney because you are among great attorneys.
3 Part of my responsibility if I get appointed to a committee or
4 subcommittee is to make sure people get mentored and if people
5 do not get chosen for a PSC can work and mentor. I think that
6 is important, especially in today's litigation environment
7 where trials do not happen much.

8 You do depositions and working in multi-district
9 litigation is very difficult, someone should be there to
10 oversee the steering committee and to help people find a path
11 to get work.

12 One of my great helps and skills as well with respect
13 to litigation is depositions. I love to do that. I am not
14 into, you know, like the briefing as much as I like documents,
15 I love learning documents, and I love to take depositions.
16 People ask for advice, what do I do for a deposition? Know the
17 documents. If you don't know the documents, that is the advice
18 I give to my associates and colleagues, I prepare for weeks at
19 a time going over the documents and being a worker bee.

20 *THE COURT:* Thank you, Mr. Assaad, very nice to meet
21 you and hear about your background and the emphasis that you
22 put on mentoring. That is very important. That resonates well
23 with me. Thank you so much, pleasure to meet you.

24 *MR. ASSAAD:* Thank you and good luck, your Honor, in
25 the process.

1 *THE COURT:* Thank you, I will need it.

2 We have Mr. Fraser next. How are you?

3 *MR. FRASER:* I am good.

4 *THE COURT:* It has been a long time.

5 *MR. FRASER:* We are winding to the end and I'm excited
6 to meet you.

7 *THE COURT:* Likewise.

8 Tell me about your background and why you want to be
9 part of this litigation in a leadership role.

10 *MR. FRASER:* Sure. I have been working as an attorney
11 for the past six years, I graduated in 2014, and I am also an
12 adjunct law professor at South Texas College of Law, I teach
13 negotiations, and really enjoy being a lawyer practicing law
14 and helping younger students. I am kind of on the younger end
15 of an attorney scale, I suppose, and I have a lot of career
16 ahead of me, but I enjoy learning about law, and this is kind
17 of a new experience for me.

18 As you can see from the application, there is some
19 committee work I have done, but applying for a steering
20 committee, this is the first. I want to speak to the values I
21 can bring.

22 One of the points is diversity, and one of the largest
23 diverse points I have, I am Canadian and I moved to the United
24 States in 2011 and haven't left, and as you know from Florida,
25 Canadians love Florida. If there is any reason I can travel to

1 Florida, that would be just fine.

2 In addition to that, I would like to say Canadians, we
3 are very respectful. We are always very nice, but respect is
4 what is valued with teamwork. Others have invited me to other
5 work opportunities, I think that matters. One of my mentors
6 told me, it is not just teamwork for the Plaintiffs' side and
7 clients, but also with Defense counsel, you need to work with
8 them in a collaborative manner. With my mass tort work I have
9 run into the same Defense attorneys two or three times.

10 I am not sure if 35 is young in this application
11 process. It is not that we have a demographic on every
12 applicant. I do feel like I am on the younger end or gaining
13 experience end of an attorney applying. I wanted to say that
14 mentorship is something I have heard other attorneys mention,
15 including Gabe, but this morning as well, and something you
16 mentioned.

17 I feel it is so important because I feel like our
18 younger generation is not getting enough exposure to
19 jurisprudence and what it means to be an attorney in the
20 practice of law, and to learn the substance is very important,
21 but to learn what it means to be an attorney is also important,
22 and that is information I would love to continue to learn and
23 pass on to my students that I teach. I feel that is an art
24 being lost.

25 The other thing is that I believe I have a strong work

1 ethic. I know that was mentioned quite a few times, but I
2 truly believe it is like a marathon and if you continue to go
3 at a solid pace, you know, it ends up in a great result, and if
4 you work hard, it breeds opportunity.

5 I had a mentor who had a quote, he said don't touch
6 something so lightly that it goes unnoticed. It is something I
7 write on the board and I try to follow that.

8 Before law school I was actually a teacher, and being
9 a teacher in a small community and telling everyone you are
10 going to go to law school in the United States, everybody says,
11 sure, that is not going to happen.

12 I worked really hard, applied, and entered law school.
13 In law school everyone starts off out of fear or initial
14 enthusiasm, but I kept the same enthusiasm the whole time which
15 produced good results and led to a job interview. From the job
16 interview, I remember going from -- getting out of law school
17 you have no money, you pay for books and tuition and hope to
18 get a job. I remember going to the interview, I was waiting at
19 a bus stop and all of a sudden a guy was cleaning a building
20 and the paint comes off the building and comes on my suit, very
21 important to my livelihood.

22 I get the job and it happens to be in mass torts.
23 They don't teach you mass torts, that is a word you are
24 unfamiliar with. It was the AMS mesh settlements, one of the
25 largest product liability settlements, I believe it had over

1 40,000 individuals who went through the settlement process.
2 Right out of law school I was indoctrinated in mass torts and
3 had a lot of cases and with effective management, that led to a
4 lot of other settlements. I think there were over 60,000 cases
5 I helped in one way or another to manage, and that led over to
6 hernia mesh and my work ethic continued.

7 I went from one MDL and got invited to help on a
8 subcommittee on another MDL. I helped on the document review,
9 science committee, and taking depositions and the bellwether
10 trial and going through that process. I value the process and
11 hard work I had that led me in front of you, and I very much
12 value this opportunity.

13 Thank you for your time.

14 *THE COURT:* You are very welcome.

15 Well, I think you covered a lot of the important
16 points I wanted to go over, including your career path. It has
17 been an interesting one going from teaching to practicing and
18 now practicing and teaching. I appreciate very much your
19 comments about mentorship.

20 I think everybody on the Zoom conference likes to hear
21 particularly from the younger attorneys. We are not saying
22 what we call young or not, I like to think I am still young,
23 but in any event, it is important that the team be heard from,
24 people who speak firsthand who benefited from it.

25 Thank you for applying and a pleasure to meet you.

1 *MR. FRASER:* Pleasure to meet you as well.

2 *THE COURT:* We will go to Meagan Phillip.

3 How does it feel to be the final interviewee of
4 section four, day two? You have been very patient. Thank you
5 for your application. Let me have you say some words about why
6 you have chosen, along with your other colleagues, to apply for
7 the leadership position.

8 *MS. PHILLIP:* Thank you. I am Meagan Phillip, an
9 associate at McDonald Worley, handling product liability mass
10 tort cases. Prior to that, my interest encompassed public
11 service law, defending corporate clients against insurance
12 claims and Government, providing judicial support for civil and
13 injunctive relief applications and domestic violence court.

14 In my current work, I oversee the filter therapy drug
15 and Xarelto dockets and I am responsible for the day-to-day
16 management of the case load. This is my first time applying
17 for the position, and I would work objectively and
18 cooperatively to accomplish the goals in the Zantac litigation.
19 I would help the staff and Court to a smooth handling of this
20 litigation.

21 *THE COURT:* Managing the docket, what percentage have
22 you obtained of product ID, and what lessons have you learned
23 from that that would be instructive in this case?

24 *MS. PHILLIP:* In the majority of the cases we have
25 been able to obtain product ID through the pharmacists

1 themselves or many of our clients had taken the treatment prior
2 to multiple manufacturers being available. Those are the
3 easiest ones.

4 *THE COURT:* Any ideas, not just product ID's,
5 regarding leadership in this case?

6 *MS. PHILLIP:* Just being persistent and never giving
7 up, keep working at it, keep trying every avenue. The planning
8 and steering committee, I am new to mass torts, I'd reach out
9 to them with lots of questions, never giving up, keep being
10 persistent.

11 *THE COURT:* Okay. And I guess similar to questions I
12 have asked others, including Mr. Worley, as a newer attorney,
13 what steps could I take, or would you want leadership to take
14 for all attorneys with other backgrounds?

15 *MS. PHILLIP:* In giving us the opportunity today to
16 discuss our applications, you have them there, being able to
17 speak with you and each other and have the opportunity to apply
18 for this role, this is the first time I have had the
19 opportunity, and I appreciate it.

20 *THE COURT:* Okay. Anything else that you wanted to
21 share with the Court, Ms. Phillip?

22 *MS. PHILLIP:* No. Thank you for your time and
23 patience, it has been a long two days for you.

24 *THE COURT:* Thank you so much.

25 With that, Ms. Phillip was our final interviewee and

1 applicant. I have no formal prepared concluding remarks, so I
2 am just going to say what I am thinking.

3 Let me be pragmatic about it first. Don't forget next
4 week we have a couple of conferences, you have those in the
5 orders. I am not going to cite which PTO, what time, what day,
6 you know what is in the orders, and I am sure everybody knows
7 at this point. But in the event you don't, all of the orders
8 are uploaded onto the website, the Florida Southern District
9 website. We are trying to make it very user friendly, the
10 feedback we get from you and anything in the realm that our IT
11 department can do, they are willing to do whatever they can do.

12 The docket is getting large, it is hard to scroll
13 through that docket and find what you are looking for. I try
14 to remember to put every PTO up on the website, but nothing
15 replaces the docket.

16 I will be getting out through the liaisons
17 instructions again, Zoom instructions, although I think we've
18 got this. Maybe there will be new people on, and the format
19 will be different, of course. It will be very different on the
20 initial conference and the preliminary discovery conference
21 than the series of interviews over the past few days.

22 There are a few things we need to play around with and
23 I got an idea that you will be exploring. I am not -- we
24 blocked your screen sharing ability today in case you didn't
25 notice. We didn't want anyone's screen to pop up. So, to that

1 end, I know you have a save the date and time for Monday at
2 11:00. Don't hold me to that. I know liaisons have been
3 terrific in getting the information out, I have not circulated
4 the instructions yet, I am waiting to fully understand what the
5 format of the initial conference and discovery conference will
6 be, in large part how the leadership would want to frame it,
7 which brings it back to my day is not done by any means.

8 I intend to get the leadership out tomorrow. I have
9 been digesting everything, I have been listening intently, I am
10 not multitasking. I have all of my notes there and everything
11 about each one of you in a really very organized fashion. I
12 must say in my one note folder, as a backup I have everything
13 printed out in case the computer crashed.

14 What else do I want to say? I have thanked many
15 people today, I don't want to name everybody I want to thank.
16 I am just the face whom you are seeing, but behind me is my
17 staff, incredible staff, my court reporter, courtroom deputy,
18 my law clerks. Special Master Jaime Dodge has been incredible
19 in terms of the time commitment she has put in. The IT
20 department has been amazing.

21 The first email I think that I am going to send right
22 after this from my perspective, and you will give feedback
23 whether there is something that you think did not go so
24 smoothly today, but from my end -- except for a glitch here or
25 there where I couldn't hear anybody, but we got through it in

1 less than a minute. Everything was seamless. That does not
2 just happen, it takes a team to work with you to pull something
3 like this off, and includes all of you, as I think I began with
4 my opening remarks in thanking you for going through the test
5 session last week, and the cohosts. I want to thank the
6 Defense and Plaintiff liaison, Ms. O'Connor and Mr. Maderal,
7 they have been incredibly helpful to the Court as well.

8 A lot of wonderful things were said today. I know 77
9 of you are still on, I only know that because I can see the
10 number of participants. I am not checking. I have it on
11 non-video participants. I don't see squares with names, I am
12 not checking who is on or off. There are 77, that is a lot of
13 people.

14 I hope all of you gained as much as I did. Yes, this
15 is about picking leadership and a leadership team will be
16 picked, but you have heard from a team of diverse people who
17 have a vested interest in this litigation, who bring different
18 ideas and skills and life experiences, professional
19 experiences, and I don't know about you, but I feel I am the
20 better person and hopefully will become a better judge just
21 because I heard these different perspectives.

22 I think it is important for us to remember who is out
23 there. I try to remember that about the lawyers who appear
24 before me, where they come from, if it is a small firm and
25 limitations on what they can do, a big firm, Plaintiffs' side,

1 Defense side, types of clients, struggles they may have with
2 clients. I was in practice long enough, and I haven't been
3 that far out, to remember all of those things and be sensitive
4 to all of those things.

5 And while we all have a job to do, and we want to do
6 it in the best way we can, with the most energy and zeal and
7 legal skills, we should remember we are dealing with people and
8 we should be courteous and professional. Anyone who knows
9 anything about me knows that when I have free time, I spend a
10 lot of time in the area of civility, working and consulting
11 with a national program with a colleague of mine where we bring
12 students in the courtroom throughout the year and try to teach
13 them civility and how to talk to each other.

14 Technology is great, we could not have done this
15 without technology. Thank goodness we had this, if there is
16 ever a time I am so grateful for the technology. We can't hide
17 behind technology, we can't see each other personally, and
18 things can't be the same as if you are across the table from
19 someone looking them in the eyes, which fortunately I can't do
20 that with you right now. I am just looking at myself.

21 Look, a telephone call is usually better than an email
22 or text. An email is expedient, gets the job done quickly, I
23 am an avid user of emails. I get called on it all the time
24 that I am on it too much. Maybe. But there is a time and
25 place for emailing and texting, and there is a time to pick up

1 the phone and call somebody and just have a conversation so
2 they don't misconstrue what you are saying, and hear the tone,
3 hear maybe the way you are saying it and not just the words
4 that are being articulated.

5 It is really important, and I hope we see that in this
6 litigation. I will do all I can to foster it, but you are all
7 related in the case and you will set the tone for how this
8 litigation plays out.

9 For those of you who are selected in the true sense of
10 the word as leaders in this case with the formal titles, please
11 remember what you heard here over the last two days. There are
12 younger, newer, less experienced attorneys who are crying out
13 for help. They are perfectly competent, I am not saying they
14 can't hold their own, they have done a fine job so far.

15 The fact that they had the confidence and took the
16 risk in applying for a big position in a big case is to be
17 commended. Just remember them and remember your obligations as
18 more experienced and senior attorneys to the next generation.
19 It is true, lawyers don't get into court very much any more,
20 the profession is changing. I err on the side of having more
21 hearings and status conferences and put in my initial order
22 that more senior attorneys will allow the younger attorneys to
23 come to the courthouse and sit at counsel table and appear
24 before the judge.

25 With the Zoom hearings, I am not inviting a free for

1 all here. We were making sure we didn't have too many people.
2 Again, it was an open proceeding. To my knowledge, we didn't
3 exclude anybody. There were concerns about potential bandwidth
4 limitations, so I didn't go overboard and say bring your whole
5 office into the Zoom meeting today, but in the future, if we
6 continue for some while to have our conferences by Zoom, and
7 that may be the case, invite some of your other attorneys,
8 perhaps your younger attorneys, even your paralegals, maybe,
9 who never get to see you in action. This is a great
10 opportunity, they can be sitting there and if their video is
11 off, I don't know that they are sitting there, not that I mind
12 anyway. Let's look at this as an opportunity and time for,
13 with many of the challenges and difficulties that we are all
14 facing, as the positive things that can come out of it
15 personally.

16 Even just interacting with each of you on Zoom, you
17 are much closer to me, and I am much closer to you physically
18 in terms of having seen each other than when you are back here
19 at the podium and way back at the bench. I think in a very
20 bizarre way, even though it is virtual, it has created a sense
21 of intimacy and connectiveness one might not feel working with
22 courtroom doors and high ceilings and a lot of space between
23 the judge and the attorney.

24 There are a lot of things we can learn that are
25 positive with the use of technology, I hope, with your

1 experience having accomplished so much with the interim team,
2 and those not on the interim team and working on this case and
3 other cases, you are doing it presumably through technology.
4 It saves time, you don't have to drive or fly, it saves
5 expenses. I should say this is a way we can do it that is
6 efficient, that saves our clients money, that allows us to be
7 good lawyers and not lose anything or compromise from a quality
8 of advocacy standpoint and be resourceful, conservative, and
9 mindful of time and money, which is always an issue in
10 litigation, but particularly when we are talking about an MDL.

11 No one should feel disadvantaged in that regard
12 because nobody is coming into the courtroom now, they don't
13 want to appear remotely because opposing counsel is here. It
14 is true if someone is in the courtroom and another person is
15 appearing by phone, but it is a level playing field now, we are
16 all on the same platform, if you will.

17 With that, I want to thank everybody for your
18 participation, thank the applicants for applying and exposing
19 your background and experience to me both in your applications
20 and interviews. I look forward to seeing some of you next
21 week, those of you who will be appearing by video. I know some
22 of the others of you will be here, just not necessarily
23 appearing by video.

24 I have nothing further to say. I am going to sign off
25 now, I am going to mute, stop video, and leave the meeting.

1 You are welcome to do the same.

2 Have a nice evening and I look forward to seeing those
3 of you who are appearing next week.

4 *(Thereupon, the hearing was concluded.)*

5 * * *

6 I certify that the foregoing is a correct transcript
7 from the record of proceedings in the above matter.

8
9 Date: May 11, 2020

10 /s/ Pauline A. Stipes, Official Federal Reporter

11 Signature of Court Reporter
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Pauline A. Stipes, Official Federal Reporter

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